

GAHC010046822024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Bail Appln./650/2024

MD. NUR AHMED BORBHUYAN
S/O- ABDUL KHALIL, R/O- VILL- BOKULGURI PADUMONI, P.O.
BARAPATIA, P.S. KAMPUR, DIST.- NAGAON, ASSAM, PIN- 782428

VERSUS

THE STATE OF ASSAM
REP BY THE PP ASSAM

Advocate for the Petitioner : MR. J HATIMURIA

Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE ROBIN PHUKAN

ORDER

15.03.2024

Heard Mr. M. Kalita, learned counsel for the accused and also heard Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, appearing for the State respondent.

2. This application under Section 439 Cr.P.C. is preferred by accused, namely, Md. Nur Ahmed Borbhuyan, who has been languishing in jail hazot since 22.02.2024, in connection

with Pathsala P.S. Case No.81/2023, under Section 379 IPC, read with Section 66(C)/66(D) of the I.T. Act, for grant of bail.

3. It is to be noted here that the aforementioned case has been registered on the basis of an FIR lodged by one Kanak Ch. Das, on 26.03.2023. The essence of allegation made in the aforesaid FIR is that he has been maintained one account at State Bank of India, Pathsala Branch and since 12.10.2023 till 23.10.2023 some unknown persons have withdrawn a sum of ₹ 3,41,700/- from his account.

4. Mr. Kalita, learned counsel for the accused submits that the accused was arrested on 22.02.2024 and since then he has been languishing in jail hazot for last 21 days and that he is no way involved with the offence alleged in the FIR and the main culprit of the offence is one Minaj Uddin Laskar and he has already been arrested and that the accused is ready to cooperate with the investigating agency and therefore, it is contended to allow this petition.

5. On the other hand, Mr. P.S. Lahkar, learned Additional Public Prosecutor, Assam, submits that the I.O. has collected some materials in support of the allegation made in the FIR and therefore, Mr. Lahkar has opposed the petition.

6. Having heard the submission of learned Advocates of both sides, I have carefully gone through the petition and the documents placed on record and also perused the case diary with the assistance of Mr. Lahkar, learned Additional P.P.

7. The case diary indicates that some materials have been collected by the I.O. in support of the allegation made in the FIR. But, it also appears that some progress has been achieved by the I.O. in the investigation of this case and the main culprit has already been arrested and the present accused has been languishing in jail hazot for last 21 days and given the nature of accusation and the punishment prescribed for the same and balancing the same against the period of detention, this Court is inclined to allow this petition. It is provided that on furnishing a bond of ₹ 50,000/- with one surety of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Pathsala, Bajali, the

accused, namely, Md. Nur Ahmed Borbhuyan, be enlarged on bail.

8. In terms of above, this bail application stands disposed of.

9. Case diary be returned.

Sd/- Robin Phukan
JUDGE

Comparing Assistant