

GAHC010240912022



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

Case No. : Bail Appln./3212/2022

SALIM UDDIN @ MD SELIMUDDIN
S/O- LT. ABU HUSSAIN, R/O- VILL- BAJAKHAITI PATHAR, P.S. MOIRABARI,
DIST.- MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR S HOQUE

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 30-11-2022

Heard Mr. S. Hoque, learned counsel for the accused-petitioner and Mr. M.P. Goswami, learned Additional Public Prosecutor for the respondent State of Assam.

2. By this application under Section 439, Code of Criminal Procedure, 1973 [CrPC], the accused-petitioner viz. Salim Uddin @ Md. Selimuddin has prayed for his release on bail in connection with Borboruah Police Station Case no. 93/2022 registered under Sections 457/380/436, Indian Penal Code [IPC].

3. The authorized official of M/s Hitachi Payment Services Private Limited [‘the complainant Company’, for short] had lodged the First Information Report [FIR] on

06.09.2022. The complainant Company is a service provider and manages ATMs all over India including one of the State Bank of India at Borboruah Bura Hazar Konwar Gaon, Post Office & Police Station – Borboruah, District – Dibrugarh [‘the SBI ATM’, for short]. It is alleged that on 06.09.2022, some unknown miscreants had damaged the SBI ATM with the help of gas cutter and had stolen the entire cash amount therefrom amounting to Rs. 30,81,000/-.

4. The accused-petitioner has been arrested on 18.09.2022. The accused-petitioner is, therefore, in custody in connection with Borboruah Police Station Case no. 93/2022 for 73 days since 19.09.2022.

5. Mr. Goswami, learned Additional Public Prosecutor opposing the prayer for bail, has referred to the materials in the case diary, collected during the course of investigation carried out so far. In the course of investigation, a number of persons have been arrested. By submitting that the said arrested accused persons had indicated the accused-petitioner’s involvement in looting the two ATMs, Mr. Goswami has submitted that the accused-petitioner should not be released on bail as the amount or any part of the amount looted from the ATMs have not yet been recovered.

6. The materials in the case diary including the statements of the witnesses, go to indicate that the movements of the accused-petitioner along with other accused persons point towards their likely involvement in the looting of the two ATMs. The accused-petitioner is in custody for 74 days since 18.09.2022 along with the few other arrested co-accused persons from the same date. But till date, neither any tangible materials/articles connecting the accused-petitioner directly with the alleged crime nor the alleged looted amount or part of the alleged looted amount has been recovered.

7. Having regard to the period of detention of the accused-petitioner in custody for 73 days since 19.09.2022, this Court is of the considered view that further custodial detention of the accused-petitioner appears not necessary for the purpose of carrying out further investigation into the case and his release on bail, at this stage of investigation, is not likely to cause any prejudicial effect in the further investigation of the case, provided he continues

to extend his assistance and co-operation in the further investigation of the case.

8. Accordingly, it is directed that the accused-petitioner shall be released on bail on furnishing a bail bond of ₹ 50,000/- with two suitable sureties of the like amount to the satisfaction of the learned Chief Judicial Magistrate, Dibrugarh, subject to the conditions that :-

- [i] the accused-petitioner shall not leave the territorial jurisdiction of the aforesaid Borboruah police station, without prior written permission from its officer in charge;
- [ii] the accused-petitioner shall appear before the Investigating Officer [I.O.] of the case once in every month till completion of the investigation and shall cooperate with the investigation and shall thereafter, make himself available as and when his presence is required by the I.O. in the investigation of the case;
- [iii] the accused-petitioner shall not, directly or indirectly, make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- [iv] the accused-petitioner shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- [v] the accused-petitioner shall maintain law and order and he shall not commit an offence similar to the offence of which he is accused, or of the commission of which he is suspected; and
- [vi] the accused-petitioner shall regularly remain present during the trial and co-operate the Court to complete the trial for the above offences, if charge sheeted in the case.

9. The application stands disposed of in the aforesaid terms.

JUDGE

Comparing Assistant