

**Present:- Sri N. J. Haque, CJM, Sonitpur,  
Tezpur**

Tezpur PS Case No-1646 of 2021

GR Case No-2658 of 2021

U/S-379 of IPC

ORDER

12.08.2021

Case record put up today before me.

Accused persons, namely, Md. Mirajul Islam aged about 19 years, Md. Mubarak Ali aged about 24 years, Md. Faijul Ali aged about 38 and Md. Noor Hakim aged about 23 years arrested and produced before this court in connection with this instant case registered under section-379 of IPC.

Seen the Forwarding Report, Memo of Arrest, Inspection Memo, Notice u/s-50 of CrPC, Medical Report, Check List and Case Diary.

On perusal of the entire case record, it disclosed that the accused persons are produced today on being arrested on 11.08.2021 at 10 PM and thereafter, they were duly undergone COVID-19 test at Kanaklata Civil Hospital, Tezpur where they tested negative.

The I/O had complied the guidelines of Hon'ble Apex Court given in the case of **State of Bihar v/s Arnesh Kumar**. The I.O further submitted the check list in accordance with law. On complying the provision of section-41(A) of CrPC

Accused persons are found to be represented by their Ld. Counsel.

Seen the bail petition bearing No-488/2021 filed for the accused persons, Md. Mirajul Islam, Md. Mubarak Ali, Md. Faijul Ali and Md. Noor Hakim by the petitioner named Md. Imran Hussain praying

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for their bail. Bail petition filed in support with an affidavit.

Heard both the sides and perused the petition with the case record.

On perusal of the case record it unveiled before this court that criminal law sets in motion closely on lodging an ejahar by the informant Sri Rajesh Baruah alleging that on 09.08.2021 at about 12:10 AM, he had parked his motor cycle in front of Idgah Field and went towards at Tata Finance Office. After, sometime, when he returned from there, he saw his motor cycle was missing from the said place.

It also disclosed from the case diary that the stolen motor cycle was recovered from the possession of the accused Faijul Ali at Saliachapori and the case was registered u/s-379 of IPC. It also disclosed from the case diary that accused persons, namely, Mirajaul Islam and Mubarak Ali has been found at C.C. T.V footage while they were riding the said motor cycle. The offences punishable u/s-379 of IPC appears to be cognizable and non-bailable in nature. The investigation of this case is pending at a pre-matured stage and nature of offences involved in this case deserves meticulous investigation of the I.O. More also, the I.O deserves a fair chance to investigate the case properly to unveil the concealments from the alleged incident.

Therefore in the light of all the aforesaid discussions this court not finds anything to allow the bail of the accused persons. Hence, the bail prayer of all the above named accused persons stands rejected due to devoid of any merits.

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Seen the prayer of the I/O where the I/O has prayed 06 (Six) days of police custody of the accused named Mirajul Islam stating that for the sake of recovery of other stolen motor cycle police custody is required.

Now, coming to the question of granting of police remand of both the accused person Mirajul Islam, this court has meticulously considered the materials available in the case diary and to recover the other stolen motor cycle, the police remand of the said accused is required. Accordingly, having considered upon the materials on record, the prayer of I/O regarding police custody for 06 days is allowed. Hence, accused named Md. Mirajul Islam is sent to police custody for a period of six days and during his police remand, the I/O is directed to follow the guidelines of **Hon'ble Supreme Court given in the case of D.K. Basu –vs- State of West Bangle.**

Further, the I/O shall provide adequate medical treatment to the accused person during his police custody by way of medically examining the accused person in every interval of 24 hours and the I/O shall forward the medical reports of the accused person before the Court. The I/O shall not torture the accused person in any manner which is not permitted as per law.

The I/O shall produce the accused persons before this court on **18.08.2021** after examining COVID-19 test. Furthermore, the I/O shall comply the guidelines of COVID-19 during police remand of the said accused persons.

**Accordingly, accused persons, namely, Md. Mubarak Ali, Md. Faijul Ali and Md. Noor**

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**Hakim are remanded to judicial custody till  
25.08.2021.**

Further on physical appearance of accused person named Md. Faijul Ali, it disclosed that said accused has been suffering from kidney stones.

The Jail Authority of Central Jail, Tezpur is directed to provide adequate treatment to the said accused.

Also seen the prayer of the I/O for perusal of three nos of seizure lists along with seized article i.e. (i) one key of motor cycle Regd. No-AS-17/D-6628 (Glamour) marked as MR No-279/21; (ii) one Pulsar motor cycle bearing Regd No-AS-12/AA-7828; (iii) one Lava Mobile Handset SIM Card No-8695855266 and (iv) one VIVO mobile Handset vide Sim Card No-9395104381 marked as MR No-284/21 and One Glamour motor cycle bearing Regd. No-AS-17/D-6628 (red colour) bearing Engine No-JA06EJCGK04712 & Chassis NO-MBLJA06ACCGK04107; (V) Two number plates of motor cycle bearing Regd. No-AS-17/D-6628; (vi) One motor insurance certificate vide Policy No-321202/31/2018/1012 of motor cycle bearing Regd. No- AS-17/D-6628 in the name of Rajesh Baruah marked as MR No-283/21.

The prayer of the I/O considered and allowed and seizure lists are seen along with the seized articles.

Let furnish photostat copy of seizure lists and the seized articles to the I.O, keeping the original seizure list with the case record.

Return back the case diary.

Inform all the concerned.

Sri N. J. Haque  
Chief Judicial Magistrate  
Sonitpur, Tezpur