

GAHC040003782023



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

Case No. : BA 32/2023

1:Yater Taggu
W/o Shri Taket Jerang,
Permanent Resident of Village Mori, PO Pessing, PS Rungong, Dstrict Siang,
Arunachal Pradesh and presently residing at Govt. residential quarter No. 284/T-II
located at E Sector, Naharlagun, Arunachal Pradesh.

VERSUS

1:THE STATE OF AP
Represented by Special Public Prosecutor (CBI)

Advocate for the Petitioner : Adam Tatak

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MRS. JUSTICE MITALI THAKURIA

ORDER

Date : 18.04.2023

Heard Mr. A. Tatak, learned counsel for the petitioner,. Also heard Mr. M. Kato, learned Standing Counsel, CBI.

2. This is an application under Section 439 of the Code of Criminal Procedure

praying for enlarging the accused- Shri Taktet Jerang on bail, who was arrested in connection with CBI Case No. RC0172022A0009, registered under Sections 120B/406/409/ 420 of the Indian Penal Code *read with* Sections 7/8/13/19 and 13(2) of P.C. Act, 1988.

3. It is submitted by the learned counsel for the petitioner, Mr. A. Tatak, that the present F.I.R. was lodged on 28.08.2022 alleging that in the recent examination conducted by Arunachal Pradesh Public Service Commission (APPSC) on 26.08.2022 & 27.08.2022 for the post of Assistant Engineer (Civil), there was a suspicion that the paper had been leaked in advance by the officials of APPSC in nexus with some people along with some coaching institute. In connection with the said case, the present accused was arrested on 16.09.2022 and since then, he is languishing in jail. On 08.12.2022, the Charge-Sheet was also filed in connection with this case. However, prior to the filing of the Charge-Sheet, the accused filed a petition before the learned Special Judge, PC Act, Yupia, praying for bail under Section 167 (2) Cr.P.C. and the same was rejected by the said Court vide order dated 28.11.2022. After filing of the Charge-Sheet, the case was fixed for consideration of charge on 03.04.2023 and the present accused also filed a petition for bail stating that the bail is necessary for preparing his defence as per the mandate of Article 21 of the Constitution of India. However, the learned Special Judge, PC Act, Yupia, vide order dated 15.03.2022, rejected the bail prayer of the accused on the ground that the present accused is the prime accused and there is every probability of hampering or tampering the evidences and also influencing the witnesses who are acquainted with the facts of the case. It is further submitted that the learned Court below failed to consider the

fact that the instant case is substantially based on the documentary evidence which is under the safe custody of the learned Trial Court as well as in the custody of the Investigating Agency and hence, the question of tampering with those evidences does not arise. The CBI has also filed the subsequent Charge-Sheet in this case and hence, there does not arise any question of hampering or tampering evidences at this stage. More so, there are 39 numbers of witnesses in the instant case, which would take indefinite time to conclude trial and hence, incarceration of the present accused, till examination of 39 numbers of witnesses, would highly prejudice the accused and also would be tantamount to infringement of his right to fair trial as mandated under Article 21 of the Constitution of India.

4. The learned counsel for the petitioner further relied on a decision of Hon'ble Apex Court reported in **(2012) 1 SCC 40 (Sanjay Chandra Vs. CBI)**, wherein, it has been held as under:

“40. The grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in the attendance thereon whenever his presence is required.”

5. It is further submitted by the learned counsel for the petitioner that

though the accused is charge with economic offence which may be considered as grave in nature, but it is seen that the Investigating Agency has already completed the investigation and also filed the Charge-Sheet before the learned Special Judge, PC Act at Yupia and hence, further custodial detention of the present accused is not at all necessary and he may be enlarged on bail considering the length of detention already undergone by the him and also considering the fact that the case has already been Charge-Sheeted.

6. On the other hand, the learned Standing Counsel for the CBI, Mr. M. Kato, raised objection and also vide its written objection, it is submitted that initially the case was investigated by the SIC (VIG), Itanagar, but subsequently it was handed over to CBI for further investigation and accordingly, the CBI took over the case and re-registered the same as RC0172022A0009, under Sections 120B/406/407/409/420 of the Indian Penal Code *read with* Sections 7/8/13(1) (a) & 13 (2) of P.C. Act. The present accused is the kingpin of the offence and after investigation, the Charge-Sheet has been filed against the present accused along with others within the statutory period of 90 days of arrest. However, after filing of the Charge-Sheet, the Investigating Agency was continuing the investigation and the subsequent Charge-Sheet was also filed against the present accused along with others.

7. During the pendency of the investigation of the present case, another F.I.R. was lodged with the same allegation of leakage of question paper, along with other related offence of 92 examinations conducted by APPSC between 2014-2022, and the said case is also transferred to the CBI for investigation, wherein also, sufficient involvement of the present accused was also found in

regards to leaking of the question papers of various examinations. It is further submitted that the accused- Taket Jerang, being a public servant, is the kingpin of these cases and he has been found involved in distributing copies of the manuscripts of the question papers to different aspirants either directly or through agents in lieu of monetary considerations. The offence committed by the present accused including the others is of deep rooted conspiracy which caused huge loss to the State and also caused great inconvenience to the public at large and hence the same is need to be viewed seriously and the offence is considered to be grave in nature which affect the public at large and also credibility of the APPSC. The learned Standing Counsel, CBI, further submitted that there not only the examination of Assistant Engineer (Civil), 2022, was cancelled, but involvement of the present accused in other 92 examinations conducted by the APPSC are also being investigated.

8. In support of his submissions, the learned Standing Counsel, CBI, also relied on a decision of Hon'ble Apex Court, which was passed in **Criminal Appeal No. 767 of 2017 (State of Bihar & Anr. Vs. Amit Kumar @ Bachcha Rai)**, wherein, it has been observed that *"we are also conscious that if any undeserving candidates are allowed to top exams by corrupt means, not only will the society be deprived of deserving candidates, but it will be unfair for those students who have honestly worked hard for one whole year and are ultimately disentitled to a good rank by fraudulent practices prevalent in those examinations. It is well settled that socio-economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. Usually socio-economic offence has deep rooted conspiracies affecting the moral fiber of the society and causing irreparable harm, needs to be considered*

seriously.”

9. The learned Standing Counsel, CBI, further relied on a decision of the Hon'ble Apex Court in **Prahlad Singh Bhati Vs. NCT of Delhi & Anr.**, wherein also, the Hon'ble Apex Court has expressed the view that *“the jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations.”*

10. Further, it is submitted by the learned Standing Counsel for the CBI, Mr. M. Kato, that there is reasonable apprehension that the accused- Taket Jerang, being the man of power, may directly or indirectly induce or threat to any person acquainted with the facts of this case so as to prevent him from disclosing any such facts to the Court or CBI. Accordingly, it is prayed to dismiss the present bail application filed on behalf of the accused-Taket Jerang.

11. After hearing the submissions made by the learned counsels for both sides and also on perusal of the entire case record as well as the scanned copy of the LCR, it is seen that CBI has already filed the Charge-Sheet in the instant case against the accused- Taket Jerang along with others and Supplementary

Charge-Sheet is also filed by the CBI in connection with the present case. In the same time, it also seen that the accused is also alleged to have been involved in similar other cases and it is also submitted by the learned Standing Counsel, CBI, that the investigation is still going on and some other matters as during the tenure of the present accused, 92 numbers of examinations were conducted by the APPSC. It is a fact that the accused is behind the bar for a considerable period and in the same time, it is also seen that the Charge-Sheet has already been filed in the said case, though some other cases are still under investigation where the accused is alleged to have been involved in leaking of the question papers relating to the other examinations also. But, the nature of offence alleged against the present accused- Taket Jerang is that he is the kingpin of the entire crime of leaking the question papers in the examinations conducted by the Arunachal Pradesh Public Service Commission (APPSC) and he being the prime accused of this case, the probability of tampering the evidences or influencing the witnesses in connection with this case cannot out rightly be rejected.

12. More so, the charge against the present accused falls under the category of economic offence, which is considered to be grave in nature and affects the public at large and the Court has to take a different approach while dealing with such kind of offence. In this context, a decision of the Hon'ble Supreme Court in the case of **Nimmagadda Prasad** can be relied on, wherein, the Hon'ble Supreme Court has expressed the view that "*economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as grave*

offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.”

13. So, considering the nature and gravity of the offence and also considering the fact that the present accused, being the kingpin or the prime accused of this case, there is every probability of influencing the other witnesses as well as tampering the evidences cannot out rightly be rejected, and further considering the entire facts and circumstances of the case, I do not find it proper to enlarge the accused on bail. Accordingly, the petition stands rejected.

JUDGE

Comparing Assistant