

GAHC040009632023



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

**Case No. : BA/66/2023**

Tapir Saroh  
S/o Shri Talut Saroh,  
R/o Near Govt. Arunadaya School, H Sector, Itanagar, PO/PS Itanagar, Dist. Papum  
Pare, Arunachal Pradesh.  
Mob No. 9862822477

VERSUS

THE STATE OF AP  
Represented through Learned Standing Counsel, Central Bureau of Investigation  
(CBI)

**Advocate for the Petitioner** : Lissing Perme

**Advocate for the Respondent** : Marto Kato

**BEFORE**  
**HONBLE MRS. JUSTICE MITALI THAKURIA**

**ORDER**

**Date : 07-08-2023**

Heard Mr. L. Perme, the learned counsel for the petitioner  
and Mr. M. Kato, the learned Standing Counsel for the CBI.

**2.** This is a subsequent bail under Section 439 of the Cr.P.C praying for enlargement of the accused, Shri Tama Saroh on bail in connection with PCA No.24/2022 in CBI Case No. RC0172022A0009 under Sections 120(B)/409/411 IPC read with Sections 7/8/13(1) (a) & 13(2) (1) (a) P.C Act, who was arrested on 16.09.2022. On the basis of a written FIR on 28.08.2022, a case has been registered and present accused was arrested in connection with the above referred case on 16.09.2022 alleging about leakage of question paper for selection examination of Assistant Engineer conducted by APPSC.

**3.** Initially, the case was registered under Itanagar P.S. Case No. 229/2022 under Section 120B/420/406/409/407 IPC and subsequently, it was taken over by the Special Investigation Cell (SIC) and re-registered the same but thereafter, it was transferred to the CBI which was accordingly, re-registered as CBI Case PCA No.24/2022 in CBI Case No. RC0172022A0009 under Sections 120(B)/409/411 IPC read with Sections 7/8/13(1) (a) & 13(2) (1) (a) P.C Act. Charge-Sheet is accordingly submitted by the I.O on 08.12.2022 and cognizance of the said case was taken by the learned Court below on 14.12.2022.

**4.** Thereafter, bail petition was moved on behalf of the present accused before the learned trial Court which was rejected on 23.01.2023 and subsequent bail application was moved before this

Court being BA No.30/2023, but the same was rejected vide order dated 28.03.2023. And thereafter, another bail application was filed before the learned Court below solely on humanitarian ground but the learned Court below vide order dated 18.05.2023 has rejected the same and did not considered the bail application which was mainly filed not on merit but on humanitarian ground. Hence, the present petition has been filed on behalf of the present accused after rejection of the bail application by the learned Court below.

**5.** It is submitted by the learned counsel for the petitioner that the accused is in custody since last 11 months and even after filing of the Charge-Sheet till date and even after a lapse of 8/10 numbers of consecutive dates, the charge is yet to be framed by the learned Court below. More so, it is submitted that the Charge-Sheet is of 300 pages and the prosecution has cited as many as 40 numbers of witnesses in connection with this case which would take considerable period for examining those witnesses by the prosecution.

**6.** The present petition is filed purely on humanitarian ground and it is stated that the accused person has 6 numbers of minor children including 1 year and 3 months old daughter. The wife of the present accused person is also accused in connection with the present case, however, she was released on bail but during the

course of investigation she was also terminated from her service and the present accused is placed under suspension. And hence, his wife and his 6 numbers of children are facing great financial problem and even their children could not be admitted to school as there is no other earning member to maintain his 6 numbers of children. At present, his wife also has no source of income to look after the children as she is terminated from her service. If the accused person is not granted bail, it will affect children's education and they will not be able to get admission in any school, and educational right of the children which is a fundamental right will be infringed.

**7.** Since, the date of arrest on 16.09.2022, the accused has been languishing in jail more than 7 months without any sort of interrogation and thereafter, I.O has filed the Charge-Sheet implicating the present accused in the said case. As the case has already been Charge-Sheeted and during the course of the investigation the I.O has also seized all required documents and hence, there is no question of hampering or tempering of the witnesses raised at this stage of investigation. More so, the accused is a permanent resident of his address locality and hence, there is no chance of absconding for the present accused. Accordingly, the learned counsel for the petitioner submitted that bail prayer for present accused can be considered on humanitarian ground even it is not considered on merits.

8. The learned counsel for the petitioner further relied on following decision;

- 1) ***2012 1 SCC page 40 Sanjay Chandra Vs. Central Bureau of Investigation,***
- 2) ***2020 13 SCC 337 P. Chidambaram Vs. Central Bureau of Investigation,***
- 3) ***2018 3 SCC 22 Dataram Singh Vs. State of Uttar Pradesh and Another.***
- 4) ***2007 4 GLT 572 Santosh Nandi and Anr. Vs. State of Tripura***

Relying on those judgements, it is submitted by the learned counsel for the petitioner that the matter of bail is not that the accused should be detained by way of punishment but it should be considered by the Court as to whether the present accused would be readily available for trial or there is any chances for hampering or tempering the evidences. Further, it is submitted that humane attitude is required to be adopted by the judge while dealing with an application for remanding a suspect or an accused person to police custody or to judicial custody. There are several reasons for this including maintaining the dignity of the accused person, howsoever poor that person might be, the requirements of Article 21 of the Constitution and the fact that there is enormous overcrowding in

prison [2018 3 SCC page 22]. Further, it is submitted that the present case may be an economic offence but that should not be the ground for rejection of a bail and economic offences are also should be considered on same footing as the other offences under IPC. More so, the offences under economic offence does not come under any special Act or special provision like NDPS Act etc. where there are certain restriction in granting bail. Accordingly, it is submitted that the present bail application is filed purely on humanitarian ground as his wife along with 6 minor children are facing financial hardship and after her termination she is not in a position to admit their children in school. The accused is ready to appear before the learned trial Court each and every date if the accused is granted with privilege of bail.

**9.** In this context, the learned Standing Counsel for the CBI, Mr. M. Kato has raised serious objection and submitted through written objection as well as verbally that accused person's earlier bail petitions were rightly rejected by this Court as well as by the learned Court below. And it is submitted that though the Charge-Sheet is filed in the present case, another CBI investigated matter is still under investigation where one bail cancellation application has already been filed for cancellation of bail for the present accused person who is required to be interrogated keeping in custody for further investigation of this case. More so, it is submitted that in the

present case also though the Charge-Sheet has been filed by the CBI, but there was another prayer for supplementary Charge-Sheet is made by the I.O at the time of filing of the Charge-Sheet as the investigation is still going on and to book other culprits in connection with this case where the presence of the accused will be necessary for just and proper investigation of this case as well as the other case which is still under investigation stage.

**10.** It is further submitted that the offences committed by the accused person including his wife who were in pursuance of deep rooted conspiracy and cause huge loss and inconvenience to the public. The same need to be viewed seriously and considered as a grave offence against the public at large affecting the credibility of APPSC and denying fair opportunity to the deserving candidates.

**11.** The nature of offence alleged against the accused person has not only eroded the trust of the society from the Government machinery that is the examination system of APPSC but also put a big question mark on the future of hundreds of job aspirant. He also relied on a decision of Hon'ble Apex Court passed in Criminal Appeal No. 767/2017 in State of Bihar and Anr. Vs. Amit Kumar@Bacha Rai.

**12.** Further, the learned Standing Counsel for the CBI, Mr. M. Kato has submitted that this is not a fit case where privilege of bail can be granted to the present accused petitioner as there is probability or

possibility of hampering or tempering of evidence as well as the investigation of other CBI investigated matter where the presence of accused for further interrogation is necessary. And submitted that only on humanitarian ground, the present bail petition cannot be allowed and it should be rejected.

**13.** After hearing the submissions made by the learned counsel for both the sides, I have perused the case diary and it is seen that it is the successive bail application and several bail application has already been rejected by this Court as well as by the learned Court below. It is a fact that vide order dated 18.05.2023, the last bail application was also rejected by the learned Court below which was filed on humanitarian ground to consider his bail application only for the sake of his 6 minor children. The said bail application was rejected by the Special Judge on the ground that the I.O has collected sufficient evidences against the present accused and his earlier bail applications were also rejected by this Court and with that observation, the petition was rejected.

**14.** In the present petition, the learned counsel for the petitioner has also furnished 6 numbers of birth certificates to substantiate the plea that all 6 children of the present accused are still minor and his wife is facing financial hardship, even to admit the children to school after her termination from the service in connection with the present

case. It is also seen that the present accused is also suspended from the service due to his involvement in the present case as well as in other CBI investigated matter. There may be some financial hardship due to termination of service of his wife as well as the accused but that cannot be the ground for considering the present bail application where the accused is not only found involved in the present case but he is also involved in other similar kind of case and his presence may be required for filing of supplementary Charge-Sheet by the I.O as some evidence are yet to be collected and some other culprits are yet to be booked in connection with this case. It seems that both the accused and his wife alleged to have involved in the allegation of APPSC paper leakage scam and for which both the accused as well as his wife was suspended and his wife was also terminated from her service.

**15.** Further, considering the entire circumstances and evidences collected by the I.O., I find that the submission of the learned Standing Counsel for the CBI in regards to probability of hampering and tempering of the witnesses and evidences cannot also out rightly be rejected.

**16.** So, considering the entire circumstances of this case, the nature of offences alleged against the present accused, I do not find it justified to allow the accused person to go on bail at this stage

only considering the financial hardship faced by the wife of the accused. However, considering the period of detention, I hereby direct the learned Special Judge to expedite the hearing of this case and to record the evidences of vital witnesses without any delay.

Accordingly, the bail application stands rejected and disposed of.

**JUDGE**

**Comparing Assistant**