

GAHC040015382023



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

Case No. : BA/114/2023

Smti Oti Jomang
W/o Shri Talung Jomang, Resident of E Sector Naharlagun, PO/PS Naharlagun,
Papum Pare District, Arunachal Pradesh. Contact No. 8787300236

VERSUS

The Central Bureau of Investigation (CBI)
through its Public Prosecutor

Advocate for the Petitioner : Parswajyoti Das Nair

Advocate for the Respondent : Marto Kato

BEFORE
HONBLE MR. JUSTICE N. UNNI KRISHNAN NAIR

ORDER

Date : 23.11.2023

Heard Mr. P. D. Nair, learned counsel for the petitioner and also
heard Mr. M. Tanga, learned CGC appearing on behalf of Mr. M. Kato,
learned DSGI representing CBI.

1. The instant application has been filed on behalf of the accused Shri **Talung Jomang** by his wife, praying for grant of bail in connection with CBI Case No. RC0172022A0009 (Original FIR No. 229/2022) under Sections 120(B)/406/420 of the Indian Penal Code read with Sections 7/8/13(2) of the prevention of Corruption Act, 1988.

2. The accused Talung Jomang was accused of involvement in the leakage of question papers pertaining to the examination to the post of Assistant Engineer (Civil) conducted by the APPSC on 26.08.2022 and 27.08.2022. The criminal proceedings were set on motion by an FIR dated 28.08.2022 lodged by one Shri Gyamar Padung. Although the accused Shri Talung Jomang is not named therein, however, during the course of investigation, it came to light that Shri Talung Jomang (accused) had procured the question papers from one Shri Taket Jerang for facilitating the selection of his daughter Binam Jomang who was a candidate for the post of Assistant Engineer (Civil), by paying Rs. 55, 00,000/- (Rupees Fifty-five lakhs) to Shri Taket Jerang. The investigation, however, revealed that for the purpose of making the said payment of Rs. 55,00,000(Rupees Fifty-five lakhs), the accused Talung Jomang had taken loan from various sources. The investigating authority, thereafter, placed him under arrest on 30.09.2023. The bail applications filed on behalf of the accused before this Court as well as the trial Court were dismissed. The present bail application on behalf of the accused Talung Jomang is filed by his wife.

3. I have heard Mr. P. D. Nair, learned counsel for the petitioner, who has taken me through the FIR and has submitted that the investigating authority has already filed its charge-sheet on 26.10.2023 before the trial Court and the accused Binam Jomang is one of the charge-sheeted accused person.

4. Mr. Nair, learned counsel for the petitioner has referred to an order passed by the Hon'ble Supreme Court in the case of ***Taket Jerang vs. The State of Arunachal Pradesh & Anr. (Special Leave to Appeal (Crl.) No(s). 11244/2023*** wherein, the Hon'ble Supreme Court, upon consideration of the fact that the accused therein, was behind bars for a period of more than 1(one) year, was pleased to grant bail with stringent conditions.

5. Mr. P. D. Nair, learned counsel for the petitioner, further placed on record a copy of the order, dated 17.11.2023, passed by the learned Special Judge, PC Act, Yupia, granting bail to one Shri Tama Saroh who was also detained in connection with the same case in which the present accused was detained. The learned Special Judge, PC Act, Yupia, on consideration of the order dated 10.11.2023 passed by the Hon'ble Supreme Court in the case of ***Taket Jerang (supra)***, was pleased to grant bail to the said accused Tama Saroh.

6. Mr. P.D. Nair, learned counsel for the petitioner, then refers to the

decision of the Hon'ble Supreme Court in the case of ***Abhishek Tripathi vs. State of Uttar Pradesh*** reported in ***(2020) 18 SCC 441*** to contend that a parity is to be maintained in the matter of grant of bail.

7. Per contra, Mr. M. Tanga, learned CGC appearing for the respondent (CBI), by placing reliance on the affidavit filed in the present proceedings on behalf of the CBI, contends that the accused Talung Jomang has been found involved in similar offences in the past also. It is further contended that the accused is quite influential in the society and there is every likelihood that he will influence the witness if released on bail. Mr. Tanga, learned CGC, further submits that grant of bail to the accused at this stage, may prejudice the investigation as there is scope of the accused hampering the investigation or tampering of the evidence of the case.

8. I have considered the submissions so advanced by the learned counsels for the parties and also perused the materials placed on record. It is seen that the accused was arrested on 30.09.2022 and he continues to be in detention till date. It is submitted at the Bar that the accused was also shown arrested in connection with Regular Case No. RCRC0172023A0001301. However, he was granted bail in that case. It is seen from the order dated 10.11.2023 in the case of ***Taket Jerang (supra)***, the prosecution had raised contention similar to the one raised in the present proceedings. The Hon'ble Supreme Court had negated the said contentions by holding that the apprehension of the prosecution

regarding tampering with evidence and influencing the witness is concerned; the same could be taken care of by imposing stringent conditions. And accordingly, the Hon'ble Supreme Court had granted the benefit of bail to the accused Taket Jerang. The said order of the Hon'ble Supreme Court was followed in the case of Tama Saroh an accused in the same case as like the present accused.

9. The decision relied upon by Mr. P.D. Nair, learned counsel for the petitioner, in the case of **Abhishek Tripathi** (supra) being relevant to the present proceedings is extracted herein:

“1. Leave granted. The appellant is aggrieved by the rejection of his bail. He has been in custody on account of his involvement for the offences punishable under Section 307, 308, 324, 326, 385, 323 of the Penal Code, 1860 read with Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in FIR No. 148 of 2016, Police Station Barhaj, District Deoria, U.P.

4. Having granted bail to the co-accused persons against whom also same allegations are raised, we are of the view that there is no justification in denying bail to the appellant. The appellant is directed to be released on bail in connection with FIR No. 148 of 2016 on furnishing his bail bonds in a sum of Rs. 25,000 with two sureties in the like amount to the satisfaction of the trial court. It will be open to the trial court to impose appropriate conditions for grant of bail.”

10. Having considered the materials placed on record and in the light of the order of the Hon'ble Supreme Court in the case of **Taket Jerang**

(supra) and ***Abhishek Tripathi*** (supra); I am of the considered view that the accused Talung Jomang is also to be extended the benefit of regular bail.

11. In that view of the matter, I am hereby inclined to grant bail to the accused Talung Jomang in connection with CBI Case No. RC0172022A0009 under Sections 120(B)/406/420 of the Indian Penal Code *read with* Sections 7/8/13(2) of the prevention of Corruption Act, 1988. Accordingly, the petitioner is hereby directed to be released on bail in connection with CBI Case No. RC0172022A0009 and the original FIR No. 229/2022 subject to the following conditions:

- i. The accused shall execute a bail bond of Rs. 50,000/- (Fifty thousand) only with like amount of sound surety and be released from Judicial custody, if not wanted in any other case(s).
- ii. The accused shall appear before the court to face the trial as & when date fixed.
- iii. Accused shall surrender his passport, if any, before this Court and shall not leave the country.
- iv. The accused shall not influence, intimidate, coerce and allure any person acquainted with the facts of the case, who may give evidence against him in the court or before any authority.

It is hereby made clear that in the event, the accused violates any of the conditions set-up herein above, the bail granted to the accused shall liable to be cancelled.

12. The bail application stands disposed of.

JUDGE

Comparing Assistant