

GAHC010065212023



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

Case No. : Bail Appln./1137/2023

KUMAR SANJIT KRISHNA
S/O LATE UMA CHARAN BANIA
R/O UMA TIRTHA, HOUSE NO. 51, ULUBARI, GUWAHATI-781007, P.O.
ULUBARI, P.S. PALTAN BAZAR, DIST. KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : 25.07.2023

Heard Mr. P. K. Roychoudhury, learned counsel for the petitioner. Also heard Mr. M. Phukan, learned Public Prosecutor representing the State for Assam.

This bail application has been preferred under Section 439 of Code of Criminal Procedure, 1973, praying for bail of the petitioner, namely, Kumar Sanjit

Krishna, who has been detained behind the bar since 15.10.2020 (since last 2 years 9 months 10 days) has prayed for grant of bail in connection with CID Police Station Case No. 21/2020 corresponding to Special Case No. 6/2021 under Sections 120B/119/166/204/409/420/461/506/34 of the IPC read with Section 66 B of IT Act and under section 7 (a) (b) (c)/13(1) (a)/13 (2) of the Prevention of the Corruption Act, 1988 read with Section 98 (a) of the Police Act, 2007.

The accusation in this case is that on 20.09.2020, the Chairman of the State Level Police Recruitment Board, Assam lodged an FIR before the Officer-in-Charge of CID Police Station, Assam alleging, inter-alia, that the question paper of the written test for recruitment of 597 posts of Sub-Inspector (UB) in Assam Police which was scheduled to be held on 20.09.2020 was leaked and circulated in WhatsApp due to which the written test was cancelled, same had damaged the image of the Recruitment Board as well as that of the Government of Assam, apart from causing financial loss to the Government affecting the careers of the aspiring candidates.

On receipt of the said FIR, CID Police Station Case No. 21/2020 was registered and investigation was initiated. Ultimately after completion of the investigation, charge sheet was laid against the accused persons including the present petitioner and trial was commenced in the Court and learned Special Judge, Assam in Special Case No. 6/2021.

It is also pertinent to mention herein that on earlier occasion the present petitioner had filed bail application No. 1369/2022, which was rejected by this Court by order dated 26.08.2022 with liberty to the present petitioner to approach the learned trial Court for bail at an appropriate stage of trial of the said case.

It also appears that the present petitioner has moved an application for bail before the learned Special Judge in Special Case No. 6/2021 and the said prayer for bail was rejected by learned Special Judge, Assam by order dated 09.02.2023, *inter-alia*, observing that three prime witnesses in the said case namely, Ajay Rabi Das, Madhusudan and Chintu Baishya had worked under the present petitioner, while he was working as Superintendant of Police in Karimganj and unless they are examined, there is every possibility of winning over the said witnesses by the present petitioner, as there is material on record that the said witnesses were also stated to be threatened by the present petitioner.

The learned counsel for the petitioner has submitted that the petitioner is languishing behind the bar since last 02 years 09 months 10 days whereas out of 28 of the co-accused against whom the charge-sheets were framed along with the present petitioner, 26 already released on bail.

It is also submitted that the co-accused persons who were on the same footing like that of present petitioner vis-a-vis the instant case have already been released on bail and it is also submitted that in the meanwhile all the three person named as witnesses in the charge-sheet who worked under the present petitioner namely, Ajay Rabi Das, Madhusudan and Chintu Baishya have already been examined by the learned trial court, and to support the said contention the learned counsel for the petitioner has furnished additional affidavit.

It is submitted by the learned counsel for the petitioner that the main ground on which the learned Special Judge rejected the bail by order dated 09.02.2023 was that the witnesses who worked under the present petitioner were not examined and as same has been done now, it is submitted that the present petitioner should be treated at par with other and considering the long

detention of the present petitioner also as well as the fact that the petitioner is under suspension he is not in a position to influence any of the witnesses and on that ground prayer for bail is made.

On the other hand, learned Public Prosecutor has opposed the grant of bail to the present petitioner on the ground that the present petitioner does not stand on the same footing with the accused other person and he is the kingpin of the conspiracy, which was laid for committing the offence alleged in the instant case.

It is also submitted that the offence involved in this case is a socio economic offence and stringent parameters should be considered for grant of bail in such socio economic offences and in support of his contention, the learned Public Prosecutor has relied on ruling of Hon'ble Supreme Court in the case of ***State of Bihar and Another Vs Amir Kumar @ Bacha Rai*** reported in ***2017 13 SCC 751*** as well as in ***Neeru Yadav Vs. State of Uttar Pradesh*** reported in ***2014 16 SCC 508***.

I have considered the submissions made by the learned counsel for both sides and perused the materials placed on record including the scanned copy of the LCR of Special Case No. 6/2021 which has been placed before this Court by learned Public Prosecutor.

Considering the fact that out of total 28 numbers of accused against whom charges were framed only two accused including the present petitioner are yet to be enlarged on bail whereas all other accused persons are already enlarged on bail either by this Court or by the learned trial court as well as also considering the fact that the accused present petitioner is detained behind the bar since last 2 years 9 months 10 days (1013 days) and there are more than 200 witnesses to be examined and there is unlikelihood of completion of the

trial immediately, moreover, considering the fact that some of the co-accused who were already enlarged on bail stand on the same footing as that of the present petitioner and same charges were framed against those co-accused persons also, the present petitioner namely, Kumar Sanjit Krishna is allowed to go on bail on furnishing of bail bond of Rs. 1,00,000/- (Rupees One Lakh only) with two sureties of like amount to the satisfaction of the learned Special Judge, Guwahati with following conditions that:

1. That the petitioner shall co-operate in his trial and shall appear before the trial Court as and when so required by the learned Trial Court.
2. That the petitioner shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade him or her from disclosing such facts to the learned Trial Court.
3. That the petitioner shall surrender his passport before the learned Special Judge, Assam and shall not leave the jurisdiction of the learned Special Judge, Assam without prior leave of the learned Trial Court.

With the above observations, this bail application is disposed of.

JUDGE

Comparing Assistant