

GAHC010073212023



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

Case No. : Bail Appln./1236/2023

KISHOR CHUNGKRANG
S/O KESHAB CHUNGKRANG
R/O VILL- GOGAMUKH
MAYANAPARA
P.S. GOGAMUKH,
DIST. DHEMAJI

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. M BISWAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.04.2023

Heard Mr. M. Biswas, learned counsel appearing for the accused petitioner as well as Mr. M. Phukan, learned Public Prosecutor, Assam appearing for the state respondent.

2. By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Kishor Chungkrang (18 years)** has prayed for grant of bail in connection with **CID P.S. Case No. 3/2023** u/s **120B/420/427/409** of the IPC read with Section **66B** of the I.T. Act, 2000.

3. The case diary is placed before the Court by the learned Public Prosecutor.

4. The brief facts of the case are that on 13.03.2023, complainant one Nayan Jyoti Sarmah, Controller of Examinations, Board of Secondary Education (SEBA), Assam lodged an FIR before the Officer-in-Charge of CID P.S., Assam through the Addl. D.G.P., CID, Assam alleging, *inter-alia*, that a news had appeared regarding leakage of handwritten model question paper of HSLC examination of General Science (C3) subject, which was scheduled to be held on 13th of March, 2023 (Monday) and available in the hands of some candidates. It was also alleged that the said question paper was circulated through social media platform. After examination of the hand written question paper by the concerned authority the contents of the same was found to be similar to the question paper prepared by SEBA for which the examination of the subject General Science had to be cancelled.

5. Mr. M. Biswas, learned counsel appearing for the accused petitioner, submits that the accused petitioner is a student of Class XII and he appeared in Class XII final examination this year. Mr. Biswas submits that in the morning of 12.03.2023, one of his friend from the same locality, who is reportedly a child in conflict with law, asked him to share his QR code to transfer Rs.1,000/- from someone since he did not have a bank account, which the petitioner accordingly did. Mr. Biswas further submits that till the petitioner was arrested by police he

had no knowledge that the aforesaid transaction of Rs.1,000/- had any connection with the scam of leakage of HSLC Examination question papers. Therefore, Mr. Biswas submits that if the petitioner is released on bail subject to any condition(s), he is ready to co-operate in the investigation.

6. Opposing the bail application, Mr. M. Phukan, learned Public Prosecutor, submits that the petitioner shared his QR code with others for receiving money for providing handwritten question paper of HSLC Examination, 2023. Mr. Phukan further submits that the accused petitioner's QR code was being circulated for receiving money for providing the leaked question paper of General Science subject of HSLC Examination, 2023 and that he shared his QR Code with co-accused, who is a child in conflict with law to transact an amount of Rs.1,000/-for providing question paper of General Science subject.

7. It may be pointed out that it is well established basic principle of bail that 'bail is rule, jail is exception.' The question of grant or refusal to grant bail depends on the result of scrutiny of the given facts and circumstances in each case justly, reasonably, fairly and objectively, keeping in mind the precious right of the accused to life and liberty.

8. It is noticed that the accused petitioner has been in judicial custody since 15.03.2023, that is, for 38 days.

9. A perusal of the case diary, it is prima facie revealed that the accused petitioner, who is aged about 18 years, had shared his QR Code with others for receiving money for providing the handwritten question paper of HSLC Examination, 2023 and accordingly, a person had reported his illegal activity to the Inspector of Schools, Dhemaji. The aforesaid illegal acts of the accused

petitioner and similarly situated illegal acts on the part of many others in different locations of the state and at different levels led to cancellation and rescheduling of the HSLC Examination, 2023. The investigation is yet to be completed. There is indication of small monetary gains for the transaction he made while sharing the QR code with a known co-accused person.

10. However, in the overall backdrop of facts and circumstances, this Court is of the considered opinion that if the liberty of bail is granted to the present accused petitioner, the ongoing investigation is unlikely to be adversely affected.

11. Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs.20,000/- (Rupees Twenty Thousand)** with one surety of like amount to the satisfaction of the learned **C.J.M., Kamrup(M) at Guwahati.**

12. The above bail order shall, however, be subject to the following conditions-

- i) That the accused/petitioner shall co-operate in investigation as and when required;
- ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to the remaining prosecution witnesses so as to dissuade them from disclosing such facts to the Police Officer or the Court; and
- iii) That the accused/petitioner shall refrain from committing any offences similar to the one of which he is suspected of commission.

Breach of any of the above conditions shall render cancellation of the bail in accordance with law.

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant