

GAHC010076822023



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

Case No. : Bail Appln./1332/2023

JAN SAIKIA
S/O SRI MOHIRAM SAIKIA, VILL-SANTINAGAR, GOGAMUKH, DIST-
DHEMAJI, ASSAM

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. L GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.04.2023

Heard Mr. L. Gogoi, 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

Jan Saikia (41 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. L. Gogoi, learned counsel appearing for the accused petitioner, submits that the accused has been languishing in jail for last 36 days in spite of being innocent. Mr. Gogoi, however, submits that there is no denial that through WhatsApp the accused had received one handwritten model question paper of HSLC General Science subject for his nephew from one of his friends thinking that the common question paper was selected. Mr. Gogoi further submits that the accused had given the aforesaid paper to two three relative candidates only but, was never involved in the leakage of question paper of General Science subject. Therefore, Mr. Gogoi submits that his further continuation of detention

for the purpose of investigation may not be warranted.

6. *Per contra*, Mr. M. Phukan, learned Public Prosecutor, submits that the case diary reveals that the accused was a computer assistant in G.P. office, Naharbari, Dhemaji and he received the handwritten question paper from one co-accused and then, circulated the same among some of the candidates of the H.S.L.C. Examination, 2023. Mr. Phukan further submits that the present accused was one of the accused involved in the chain of accused persons who were involved not only in the leakage of question papers but also in circulation thereof with intention to gain pecuniary benefits depriving the other candidates appearing in the examination due to rescheduling of date for examination.

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 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 17.03.2023, that is, for 36 days.

9. Perusal of the case diary shows that the accused petitioner, who is working as Computer Assistant in the G.P. Office, Naharbari, Dhemaji had received leaked handwritten question paper of HSLC Examination, 2023 from an arrested co-accused person and then, circulated the same through WhatsApp among the candidates for personal pecuniary gain. He did not report the incident of receiving the question paper either to the SEBA authority or the police. The case diary indicates that he was one of the prime accused persons involved in HSLC

question paper leakage and circulation thereof. The investigation is yet to be completed.

10. Now, having considered the submissions made by the learned counsel of both sides and the facts and circumstances as emerged from the case diary, this Court is of the opinion that if the liberty of bail is granted to the accused petitioner, the ongoing investigation into the case, which involved great public interest being pertaining to the scam of leakage and circulation of the question paper of HSLC Examination, 2023 conducted by SEBA leading to rescheduling of the date of examination at the cost of the academic future of the candidates and huge expenditure of the state exchequer, will certainly be adversely affected.

11. Accordingly, the bail application of the accused petitioner stands **rejected**.

12. **As the accused has been in judicial custody, the investigating officer is directed to expedite the investigation.**

Return the case diary.

This disposes of the bail application.

JUDGE

Comparing Assistant