

GAHC010081202023



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

Case No. : Bail Appln./1349/2023

JAGANATH PEGU
S/O RAISINGH PEGU VILL. TAMARGAON NEAR DAFALAKATA HIGH
SCHOOL P.S PANIGAON DIST LAKHIMPUR ASSAM

VERSUS

THE STATE OF ASSAM
REP.BY THE PP, ASSAM

Advocate for the Petitioner : MR. D BHUYAN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.04.2023

Heard Mr. D. Bhuyan, 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

Jaganath Pegu (40 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. D. Bhuyan, learned counsel appearing for the accused petitioner, submits that the accused petitioner, who is an Assistant Teacher of Dafalakata Janajati High School, has been languishing in judicial custody since 22.03.2023 although he was in no way involved in the scam of leakage of HSLC question paper. Mr. Bhuyan further submits that as the accused petitioner has already been thoroughly interrogated by the investigating agency, he may be directed to be released on bail subject to any condition(s).
6. 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.

7. It is noticed that the accused petitioner has been in judicial custody since 22.03.2023, that is, for 31 days.

8. Perusal of the case diary reveals prima facie evidence that the accused petitioner, who is working as a contractual teacher of Dafalakata Janajati High School, Lakhimpur had received handwritten question paper on Mathematics subject with answers from one of the prime accused, who is also a teacher of the same school, on payment of Rs.2,000/- and then circulated the same to a few selected candidates. Technical analysis along with evidence collected in connection with the case reveals that he was in constant contact with the said prime accused and another. The accused petitioner even intentionally refrained from reporting the aforesaid cognizable offence committed by the prime accused either to the competent authority or to the police. His mobile telephone set has been seized and found to have deleted the handwritten question paper therefrom which amounted causing disappearance of evidence. The investigation is yet to be completed on crucial aspects.

9. Having considered 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 involves great public interest being pertaining to the scam of leakage and circulation of the question papers 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.

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

11. **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