

GAHC010084612023



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

Case No. : Bail Appln./1452/2023

PURNA KANTA PEGU
S/O- SURYA KUMAR PEGU,
VILLAGE - SABOTI,
P.S- NORTH LAKHIMPUR, DIST- LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP, ASSAM

Advocate for the Petitioner : MR J PAYENG

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

21.04.2023

Heard Ms. A. Payeng, 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 **Purna Kanta Pegu (55 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. Ms. A. Payeng, learned counsel appearing for the accused petitioner, submits that the accused petitioner, who is the Headmaster of Dafalakata High School, has been in judicial custody since 21.03.2023 despite being innocent. Ms. A. Payeng submits that the accused petitioner being a Science and Mathematics teacher one of his teacher friend, namely Jaganath Pegu gave him some hand written questions of Science to solve through WhatsApp and accordingly, he returned the same to his friend after solving the questions. Ms. Payeng submits that the accused petitioner had no knowledge that the said

questions were from the HSLC question paper. Therefore, Ms. Payeng submits that the accused petitioner may be released on bail subject to any condition(s)

6. *Per contra*, Mr. M. Phukan, learned Public Prosecutor, submits that the present accused petitioner is the In-charge Headmaster of Dafalakata Janajati High School and Assistant Centre In-charge of Na-Ali Abanoi H.S. School. Mr. Phukan submits that the accused petitioner obtained screenshots of Mathematics subject question paper from a teacher, who is a co-accused in the case and thereafter, circulated the same among his students through WhatsApp.

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 22.03.2023, that is, for 31 days.

9. Perusal of the case diary reveals prima facie evidence against the accused petitioner as submitted by the learned Public Prosecutor. The investigation is yet to be completed on crucial aspects.

10. 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 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 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