

GAHC010085752023



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

Case No. : Bail Appln./1453/2023

ANANDA DOLEY AND ANR.
S/O- LATE LONKERWER DOLEY,
VILLAGE LIGIRAMUKH CHANANG,
P.S- PANIGAON, LAKHIMPUR, ASSAM

2: JATIN DOLEY
S/O- LATE HEMADHAR DOLEY

VILLAGE- DAFALAKATA

P.S- PANIGAON
LAKHIMPUR
ASSA

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 petitioners 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-petitioners, namely **1) Ananda Doley (52 years) and 2) Jatin Doley (47 years)** have 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 handwritten 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 petitioners, submits that both the accused petitioners are in judicial custody since 22.03.2023. Ms. Payeng submits that they are Headmasters of two high schools and they were not even remotely involved in the scam of leakage of the HSLC Examination, 2023 question papers and as the prime accused of the entire case has already been arrested, their continuation of detention in the interest of investigation may perhaps be not warranted.

6. *Per contra*, Mr. M. Phukan, learned Public Prosecutor, submits that the accused

petitioner No.1 is the Headmaster of Ligiramukh High School (Venture) and the accused petitioner No.2 is the Headmaster of Madhya Kherkota High School (Venture). Mr. Phukan submits that the case diary indicates that the accused petitioner No. 1 received the handwritten question papers of Mathematics and General Science from a co-accused for Rs.1,000/-. Mr. Phukan submits that after the Mathematics question paper was received he photocopied and circulated to 20 students but, could not circulate the question paper of General Science as by that time he came to know that the scam was out. Mr. Phukan also submits that the accused petitioner No. 2 received the question paper of General Mathematics from one of the co-accused and then, transmitted the same to some of his students appearing in the examination. He printed out hardcopy of the said question paper. Mr. Phukan submits that after doing the aforesaid illegal act he received the copy of question paper of General Science subject through WhatsApp from the same co-accused person but, he could not circulate the same as in the meantime he came to know that the SEBA cancelled the examination on the scheduled date. He paid Rs.1,000/- to the said co-accused person to deliver copy of the question papers. Mr. Phukan, therefore, submits that the bail application of the accused petitioner may not be accepted at the present stage of investigation.

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 petitioners have 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 petitioners 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 petitioners, the ongoing investigation into the case, which involved great public interest being pertaining to the scam of leakage and circulation of question papers of the 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 expenditures of the state exchequer, will certainly be adversely affected.

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

12. **As the petitioners are 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