

GAHC010086472023



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

Case No. : Bail Appln./1469/2023

KUMUD RAJKHOWA
S/O LATE LOKNATH RAJKHOWA
R/O WARD NO. 14, BIJAY NAGAR,
P.O. KHELMATI, P.S. NORTH LAKHIMPUR, DIST. LAKHIMPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR. A M BORA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

12.05.2023

Heard Mr. A.M. Bora, learned Sr. Counsel appearing for the accused petitioner as well as Mr. R.J. Baruah, learned Addl. Public Prosecutor, Assam appearing for the state respondent.

By this petition under Section 439 Cr.P.C., the accused-petitioner, namely **Kumud Rajkhowa (54 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.

The case diary is placed before the Court.

The investigating officer has filed bail objection.

Mr. A.M. Bora, learned Sr. Counsel appearing for the accused petitioner, submits that the accused petitioner, who is a Science Teacher of Dafalakata Janajati High School, has been in judicial custody since 18.03.2023 despite being innocent. Mr. Bora submits that the accused petitioner received some hand written model questions of HSLC Examination, 2023 of General Science subject in his mobile phone and having doubts, forwarded the same to his colleagues to check the veracity of the same through the authority, which was subsequently somehow forwarded to some of the students without his knowledge. Therefore, Mr. Bora submits that as the petitioner's case is based on mere suspicion and as he has been languishing in judicial custody since 18.03.2023 for no fault of him, he may be directed to be released on bail subject to any condition(s).

The brief facts of the case are that on 12.03.2023, 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.

It is noticed that the accused petitioner has been in judicial custody since 18.03.2023, that is, for 56 days.

Perusal of the case diary reveals prima facie evidence that the present accused petitioner is one of the prime accused in the leakage of question paper of H.S.L.C. Examination, 2023 along with another arrested prime accused, namely Pranab Kumar Dutta, who is the Centre-in-Charge of Lohit Khaboli High School (HSLC Examination Centre), Lakhimpur. On 27.02.2023, at around 7-8 a.m., both the accused persons went to Panigaon P.S., Lakhimpur for sorting the question paper having full knowledge that no other Centre-In-Charge would be around there at that time and thereafter, the present petitioner, in connivance with said Pranab Kumar Dutta, copied the questions from the original question paper of General Science subject of H.S.L.C. Examination, 2023 in his own handwriting and circulated to others using his mobile phone not only for providing benefits to a selected few candidates but also for pecuniary benefits. The accused petitioner has admitted that he had given Rs.5,000/- in cash and one shoe (Khadims) to Pranab Kumar Dutta for providing him the question paper of HSLC Examination, 2023.

The investigation has substantially progressed in respect of the complicity of the accused petitioner in the commission of the alleged offences. Some co-accused persons are already released on bail.

Considering the length of detention and substantial progress in investigation as well as maintaining parity in order, this Court is of the opinion that further continuation of detention of the accused petitioner may not be required in the interest of the ongoing investigation into the case.

Accordingly, it is provided that the accused petitioner, named above, shall be released on bail of **Rs. 50,000/- (Rupees Fifty Thousand) only** with one surety of like amount to the satisfaction of the learned **C.J.M., Kamrup (M) at Guwahati** subject to the following conditions-

- i) That the accused/petitioner shall cooperate with the Investigating Officer as and when required;
- ii) That the accused/petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him 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 accused.

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