

GAHC010292532023



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

Case No. : Bail Appln./4680/2023

WAHIDA BEGUM
W/O SRI NIRMAL BAISHYA
R/O ECSTASY APARTMENT FLAT NO. 5, C-2, LAKHIMI NAGAR,
HATIGAON, P.S. DISPUR, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY THE PP, ASSAM

Advocate for the Petitioner : MR H K DAS

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 11-01-2024

- 1.** Heard Mr. H.K. Das, learned counsel for the petitioner.
- 2.** The petitioner, namely, Wahida Begum has filed this application under Section 439 Cr.PC with prayer for bail as she is behind bars since 09.12.2023. The petitioner is booked u/s 3/13(1) (a) (b) (d) (2) of the P.C. Act, 1988 read with Section 120(B)/420

IPC and added Section 463/468/471/477 (A)/201 of IPC.

3. Heard Mr. D.P. Goswami, learned Addl. PP, Assam.

4. It is submitted that the FIR was lodged way back in the year 2016 and charge-sheet was not laid against the petitioner. However after the enquiry of the Commission dated 18.07.2022 notices were issued against the petitioner. The petitioner then filed an application to obtain her documents to submit her WS before the Commission on 06.12.2023 and immediately thereafter on 09.12.2023 the petitioner was arrested and since then she is behind bars. The allegation against the petitioner and the co-accused are that she and the co-accused have manipulated certain documents to procure employment by posing as successful candidates of the Combined Competitive Examination (CCE for short) under the APSC. It is submitted on behalf of the petitioner that the petitioner is a lactating mother. She has co-operated with the investigation and she has also pledged to co-operate with the investigation. Her minor infant is being neglected as the petitioner is behind bars.

5. Per contra the learned Addl. PP Mr. D.P. Goswami has submitted that even during interrogation, the petitioner has not co-operated with the investigation. If the petitioner is enlarged on bail there is every possibility that the petitioner may not co-operate with the investigation. There are sufficient incriminating materials in the Case Diary against the present petitioner. Her custodial detention is required for the purpose of investigation. It is also submitted that there are incriminating materials that the petitioner has manipulated her answer scripts to increase her marks to procure employment, depriving deserving candidates for securing a job under the APSC, CCE.

6. I have considered the submissions at the Bar with circumspection. The petitioner was behind bars since 09.12.2023. The case record reveals that investigation has progressed. This is also a covered case. Charge-sheet was earlier submitted and further after a report of the Commission, the petitioner was taken into custody. On

perusal of Case Diary it appears that further custodial detention is not required for the progress of investigation. I have also considered the submissions of the learned counsel for the petitioner that a similarly circumstanced accused Sri Bikash Sarma was granted interim anticipatory bail vide order dated 22.12.2023 in connection with AB No. 4162/2023 and the other co-accused out of the three accused was not taken into custody for investigation.

7. Considering all aspects, petition is allowed. The petitioner is enlarged on bail of Rs. 30,000/- with a suitable surety of like amount to the satisfaction of the jurisdictional Court under the conditions that:-

- [i] The petitioner shall co-operate with the investigation; and
- [ii] the petitioner shall not tamper with the evidence.

On breach of any of the bail conditions, bail order shall stand cancelled.

JUDGE

Comparing Assistant