GAHC010135172020

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

Case No. : AB/2627/2020

DHRUBA JYOTI BARUAH
S/O SRI HEMA BARUAH, VILL-MAILOO BAZAR, P.S.-KHERONI, DIST-WEST KARBI ANGLONG, ASSAM, PIN-782448

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. B TALUKDAR

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 23.11.2020

Heard Ms. N. Sinha, learned counsel for the petitioner. Also Heard Mr. P.P. Boruah, learned Public Prosecutor, Assam appearing for the State respondent.

This petition under Section 438 Cr.P.C., is filed for granting the privilege of pre-arrest bail to the petitioner, namely **Dhruba Jyoti Baruah** apprehending arrest in connection with **CID P.S. Case No. 21/2020** registered u/s **201/204/120B/409** of the IPC r/w Section

66(B) of the I.T. Act, read with Section **25(1-B)** of the Arms Act.

The Case diary, as called for, is placed before the Court.

Ms. N. Sinha, learned counsel for the petitioner, submits that the petitioner is innocent and he is apprehending arrest in connection with the case as his brother Hirak Jyoti Boruah, who stays at separate rented house, was arrested on 22.09.2020 and the investigating officer is enquiring about him.

Mr. P.P. Boruah, learned Public Prosecutor, submits that the case diary reveals that the petitioner was involved in the racket of job scam in the Assam Police department and he collected question paper from one of the prime accused persons and passed the same through whatsapp message to his arrested accused-brother. Therefore, Mr. Boruah submits, it is not a fit case to grant the pre-arrest bail to the petitioner.

The prosecution case is that on 20.09.2020, one Pradeep Kumar, Chairman, State Level Police Recruitment Board, Assam lodged a written FIR with the CID P.S., Guwahati stating, inter-alia, that the written test for recruitment of 597 posts of Sub-Inspector (UB) in Assam Police was scheduled to be held on 20.09.2020 in various venues/centres in all District Headquarters across the State under the supervision of District Level Selection Committees constituted by the State level Police Recruitment Board, Assam. However, it was alleged that unfortunately the question paper was leaked and circulated in whatsapp due to which the written test was cancelled, which damaged the image of the Recruitment Board and that of the Government of Assam, apart from causing financial loss to the Government affecting the careers of the aspiring candidates.

The Apex Court, in ***State of Bihar and Anr. Vs. Amit Kumar @ Bachcha Rai,*** reported in ***(2017) 13 SCC 751*** dealing with socio economic offences held that "it is well settled that socio economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. Usually socio economic offence has deep rooted conspiracy affecting the moral fiber of the society and causing irreparable harm needs to be considered seriously." Therefore, social impact of granting or refusing bail in a case of present nature, cannot be overlooked.

Also, the Apex Court in ***Siddharama Satlingappa Mehta Vs. State of***

Maharashtra, reported in ***(2011) 1 SCC 694,*** commenting on the personal liberty vis-à-vis the social interest observed that as liberty is precious to an individual, so is the society's interest in maintenance of peace, law and order. Both are equally important. Therefore, it is certainly necessary to strike a balance between the personal liberty and the social interest.

Now, on scrutiny of the case diary, it is prima facie revealed that the petitioner has been evading arrest by police and thus, he is not co-operating with the police in the investigation into the case. There is prima facie implicating material against the petitioner. The investigation is yet to be completed. Therefore, this Court is of the opinion that it is not a fit case to grant the privilege of pre-arrest bail to the petitioner.

Accordingly, the pre-arrest bail application of the petitioner stands **dismissed**.

Return the case diary.

This disposes off the anticipatory bail application.

JUDGE

Comparing Assistant