GAHC010148182020

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

Case : Bail Appln./**2224/2020**

MD. ANOWAR ALI
Address:S/O MD. SABED ALI
R/O VILL-PATRAPUR
P.S.-BAIHATA CHARIALI
DIST-KAMRUP(R)
ASSAM
PIN-781121

VERSUS

THE STATE OF ASSAM
Address:REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM

Advocate for : MR. N AHMED
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM: Advocate appearing for respectively.

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

23.11.2020

Heard Mr. N. Ahmed, learned counsel for the accused-petitioner. Also heard Mr. P.P. Boruah, learned Public Prosecutor, Assam for the State/respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely, **Md. Anowar Ali** has prayed to release him on bail in connection with **CID PS Case No. 21/2020** under Sections 120B/409 of the IPC read with Section 66(B) of Information and Technology Act. Added Section 201/204 of the IPC and Section 25 (1-B) of the

Arms Act.

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

Mr. N. Ahmed, learned counsel for the accused-petitioner, submits that the accused has been in judicial custody for 54 days despite being innocent. According to Mr. Ahmed, the accused-petitioner, who is a driver Constable, was entrusted by the Office of the Commandant, 3rd (APTF), Assam Police Task Force BN, Darrang as driver of co-accused DIGP (Retired) P.K. Dutta and as such, he only discharged his official duty. Mr. Ahmed, therefore, submits that the accused-petitioner being innocent may be directed to be released on bail subject to any conditions.

Mr. P.P. Boruah, learned Public Prosecutor, submits that there is *prima facie* evidence to show that he was part of a wide conspiracy in the cash for job in the Sub-Inspector of Police (UB) recruitment examination in the State and as such, there is every possibility of the accused-petitioner destroying the implicating evidence if enlarged on bail at the present stage of investigation.

The prosecution case is that on 20.09.2020 one Pradeep Kumar, Chariman, State Level Police Recruitment Board, Assam lodged an FIR before the Inspector General of Police, CID Headquarter, Ulubari, 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 Committee constituted by State Level Police Recruitment Board, Assam. However, the question paper was leaked and circulated in whatsapp due to which the written test has been cancelled. It was further alleged in the said FIR that the culprits with malafide intention have damaged the image of the Recruitment Board as well as the Government of Assam, apart from causing financial loss of the Government playing with the careers of the aspiring candidates and the informant received the information about the leakage of the question paper through whatsapp message from one Sri Gautam Mech. The informant requested to enquire and investigate into the matter.

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, the social impact of granting or refusing bail in a case of present nature, cannot be overlooked.

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, interalia, revealed that the accused-petitioner having attached to

one of the prime accused D.I.G.P (Retired) P.K. Dutta and his family members intentionally hid their car and covered up their illegal activities in connection with the aforesaid recruitment examination, subject, of course, to final outcome in investigation. Therefore, this Court is of the opinion that if the liberty of bail is granted to the accused-petitioner, the ongoing fair investigation into the case is likely to be adversely affected

In view of the above backdrop of facts and *prima facie* evidence available on the case diary, the bail application is **dismissed**.

The investigating officer is, however, directed to expedite the investigation as the accused-petitioner is in judicial custody.

Return the case diary.

This disposes off the bail application.

JUDGE

Comparing Assistant