GAHC010152302020

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

Case No. : AB/3088/2020

ANUP HALOI
S/O SRI DINABANDHU HALOI, R/O VILL-MAKHIBAHA, P.O.-HARIBHANGA, P.S.-TIHU, DIST-NALABRI, ASSAM, PIN-781378

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR H GUPTA

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

23.11.2020

Heard Mr. F. Khan, learned counsel for the petitioner. Also heard Mr. P.P. Boruah, learned Public Prosecutor, Assam for the State/respondent.

By this application under Section 438 Cr.P.C., the petitioner, namely, ***Anup Haloi*** has prayed for pre-arrest bail apprehending arrest in connection with **CID P.S. Case No. 21/2020** under Sections 120B/409 of the IPC read with Section 66B of the Information Technology Act with added Sections 201/204 of the IPC and 25 (1B) of the Arms Act, 1959.

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

Mr. F. Khan, learned counsel for the petitioner, submits that the petitioner was no way involved in the alleged crime and that the police has been constantly looking for him in connection with the case and further, visited his home when he was not available raising thereby an apprehension that he may be arrested for which reason the instant petition is filed.

Opposing the petition, Mr. P.P. Boruah, learned Public Prosecutor submits that the petition does not disclose any reasonable apprehension that the petitioner may be arrested in connection with the case, which is registered under non-bailable offences. Mr. Boruah, therefore, submits that the instant pre-arrest bail petition may be rejected.

The prosecution case is that on 20.09.2020 one Pradeep Kumar, the then 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 the District Level Selection Committees constituted by the 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. The informant received the information about the leakage of the question paper through whatsapp message from one Sri Gautam Mech. The informant, therefore, 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 perusal of the case diary, it appears that the investigation is at its initial stage and no implicating evidence has come against the petitioner. Therefore, this Court is of the opinion that as there is presently no reasonable apprehension of the petitioner being arrested in connection with the case, there is no justifiable ground to apply the benefit of the provision of pre-arrest bail under Section 438 Cr.P.C in favour of him.

In view of the above, the bail application stands **dismissed**.

Return the case diary.

This disposes off the pre-arrest bail application.

JUDGE

Comparing Assistant