GAHC010155872020

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

Case No. : Bail Appln./2365/2020

KUMAR SANJIT KRISHNA
S/O- LT. UMA CHARAN BANIA, R/O- UMA TIRTHA, H/NO.- 51, KACHARI BASTI, ULUBARI, GHY, P.O. ULUBARI, P.S. PALATAN BAZAR, PIN- 781007, DIST.- KAMRUP (M), ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY P.P., ASSAM

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

Date : 23.11.2020

Heard Mr. K.N. Choudhury, learned Sr. Counsel appearing for the accused/petitioner. Also heard Mr. P.P. Boruah, learned Public Prosecutor, Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely **Kumar Sanjit Krishna** has prayed for grant of bail in connection with **CID P.S. Case No. 21/2020**

registered u/s **120B/409** of the IPC r/w Section **66(B)** of the I.T. Act added Sections **201/204** of the IPC r/w Section **25(1B)** of the Arms Act.

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

Mr. K.N. Choudhury, learned Sr. Counsel appearing for the accused/petitioner, submits that the accused, who is the Superintendent of Police, District Karimganj, Assam, has been in judicial custody and he is administered Neurobion Forte injection for severe nerve problem and further, that he being a responsible police officer voluntarily appeared before the Director General of Police, Assam on 15.10.2020 in connection with the case. Referring to the proposition of law laid by the Hon'ble Supreme Court in *NIA Vs. Zahoor Ahmad Shah Watali*, reported in *(2019) 5 SCC 1*. Mr. Choudhury submits that it is the settled position of law that at the stage of considering the prayer for bail, it is not necessary to weigh the material, but only form an opinion on the basis of the material before it on broad probabilities. The Court is expected to ascertain whether the accusations against the accused are prima facie true. Mr. Choudhury, learned Sr. Counsel, also submits that on consideration of deteriorating health condition, the Superintendent, Central Jail, Guwahati may be directed to provide proper medical treatment to the accused.

Opposing the bail application, Mr. P.P. Boruah, learned Public Prosecutor, inter-alia, submits that the accused was the mastermind behind leaking of the question papers for money amounting to rupees forty lakhs. Mr. Boruah further submits that the case diary reveals that the accused hatched up a pre-planned conspiracy along with other arrested accused persons and himself instructed one of the arrested accused to get secret phone calls and arranged secret SIM for himself and the aforesaid arrested accused. The case diary also reveals that the accused ordered the escorting party of the question papers from Guwahati to his official residence at Karimganj instead of the designated storage place of the police department and then himself took photograph of question paper and transmitted the same to his known candidates, the investigation of which aspect is yet to be completed. According to Mr. Boruah, the accused broke off both the mobile phones, which were used in the aforesaid illegal activities in a bid to destroy evidence. Mr. Boruah vehemently submits that if liberty of bail is granted to the accused at the present stage of investigation, the entire process of ongoing fair investigation is likely to be adversely affected as some of the suspected persons

involved in the recruitment scam, which shocked the conscience of the people of the state and compelled the Government to hold a fresh examination cancelling the earlier entire examination process, are yet to be arrested.

The prosecution allegation is that on 20.09.2020, the Chairman, State Level Police Recruitment Board, Assam lodged an F.I.R. with the Officer-in-Charge, CID P.S., Assam alleging, inter-alia, that the written test for recruitment of 597 posts of Sub-Inspector (UB) in Assam Police was scheduled to be held w.e.f. 12 Noon to 3 PM 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, unfortunately the question paper was leaked and circulated in whatsapp due to which the written test was cancelled, which had damaged the image of the Recruitment Board as well as that of the Government of Assam, apart from causing financial loss to the Government affecting the careers of the aspiring candidates. The informant also stated that he received the information about the leakage of the question paper through whatsapp message from one Shri Gautam Mech.

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.

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.

Perused the case diary along with the bail objection petition filed by the investigating officer and the health status report submitted by the M. & H.O.- 1, Jail Hospital, Guwahati.

Having heard the learned counsel of both sides and perusal of the statements recorded under Sections 161 and 164 Cr.P.C., it is revealed that there is abundance of prima facie incriminating material of serious nature projecting the accused petitioner to be one of the prime accused persons. The indepth vigorous investigation into the case is yet to be completed.

Therefore, this Court is of the opinion that in the backdrop of facts and circumstances as well as the nature of accusations that emerged from the case diary, if the liberty of bail is granted to the accused, the ongoing fair investigation into the case is certain to be adversely affected.

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

The Superintendent, Central Jail, Guwahati is directed to provide necessary medical treatment to the accused as per advice of the Jail Doctor.

As the accused/petitioner has been behind the bar, the investigating officer is directed to expedite the investigation.

Return the case diary.

This disposes off the bail application.

JUDGE

Comparing Assistant