GAHC010148182020

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

Case : Bail Appln./**2433/2020**

KAKU MONI NATH
Address:S/O SRI DHARMESWAR NATH
R/O VILL-CHANGSARI
NEAR DRDA CAMP
GOPALDEV MANDIR
GAURANGAPUR SUBURI
P.O.-CHANGSARI
P.S.-CHANGSARI
DIST-KAMRUP(R)
ASSAM

VERSUS

THE STATE OF ASSAM AND ANR.
Address:REPRESENTED BY THE PUBLIC PROSECUTOR
ASSAM
2:PRADEEP KUMAR
Address:S/O LATE M.L. VARSHNEY
EX-CHAIRMAN
STATE LEVEL POLICE RECRUITMENT BOARD
ASSAM
REHABARI
GUWAHATI-781008

Advocate for : MR. P K ROYCHOUDHURY
Advocate for : PP
ASSAM appearing for THE STATE OF ASSAM AND ANR.: Advocate , appearing for 2, respectively.

BEFORE
HONOURABLE MR. JUSTICE AJIT BORTHAKUR

ORDER

23.11.2020

Heard Mr. P.K. Roychoudhury, 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, **Kaku Moni Nath** 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. (Corresponding to G.R. No. 10755/2020). Added Sections 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. P.K. Roy Choudhury, learned counsel for the accused-petitioner, submits that the accused has been in judicial custody since 06.10.2020 despite being absolutely innocent. Mr. Roy Choudhury further submits that the accused was only a candidate for the post of S.I. of Police (U.B) and the allegation does not attract the ingredients of the offences under Sections 120B/409 of the IPC. Mr. Roy Choudhury, therefore, submits that considering the facts that he did not commit any alleged offence and length of detention, he may be directed to be released on bail subject to any conditions.

Opposing the bail application, Mr. P.P. Boruah, learned Public Prosecutor, vehemently submits that the evidence so far collected by the investigating officer reveal sufficient implicating material against the accused and as such, at the present stage of investigation, the bail application may not be accepted.

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 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 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.

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 perusal of the statements of the witnesses recorded under Sections 161 and 164 Cr.P.C., it *prima facie* transpires that the accused was a candidate for the post of Sub-Inspector of Police (UB) in Assam Police department and he collected question papers of the recruitment test and circulated the same among some of the candidates. The investigation is, however, yet to be completed. 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 evidence available on the case diary, the bail application is **dismissed**.

The investigating officer is 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