GAHC010165842020

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

Case No. : Bail Appln./2577/2020

MANJIT BORA
S/O-SHRI RUBUL BORA, R/O- UJJAL NAGAR(DPI HILL SIDE), KAHILIPARA, GUWAHATI-19, PS-DISPUR
PERMANENT ADDRESS- VILL- ROJABAHORGAON,(NEAR DKD COLLEGE), PS- DERGAON, DIST- GOLAGHAT, ASSAM

VERSUS

THE STATE OF ASSAM
REP. BY PP ASSAM

Advocate for the Petitioner : MR. M A SHEIKH
Advocate for the Respondent : PP, ASSAM

BEFORE
HON'BLE MR. JUSTICE HITESH KUMAR SARMA

:: O R D E R ::

18-12-2020

This is an application made under **Section 439 Cr.P.C**., seeking bail by the accused-petitioner, namely, **Shri Manjit Bora,** in connection with **CID Police Station Case No. 21 of 2020**, registered **under Sections 120(B)/409/201/204 of the IPC, read with Section 66(B) of the I.T. Act and Section 25(1-B) of the Arms Act**.

I have perused the petition including the copy of the FIR and the documents annexed therewith.

Heard M.A. Sheikh, learned counsel for the accused-petitioner and Mr. N. J. Dutta, learned Additional Public Prosecutor, appearing for the State of Assam.

Mr. Sheikh, learned counsel for the petitioner has submitted that the petitioner has been in custody for 70 days as on date and considering the period of detention and the offence alleged against him, he deserves to be granted bail. He has also submitted that the offence

punishable under Section 409 of the IPC although alleged in the instant case, the petitioner being not a public servant, the said provision is not applicable in respect of him.

However, Mr. Dutta, learned Additional Public Prosecutor submits that the case has been registered, *inter alia*, under Section 120(B) of the IPC. He further submits that only 3/4 days back the provisions of Prevention of Corruption Act have been inserted in this case against the accused persons.

However, the admitted position is that the petitioner is not a public servant and, therefore, the provisions of Prevention of Corruption Act are not applicable in this case. The learned Additional Public Prosecutor has also submitted the in the instant case, charge-sheet, vide CS No. 07/2020, dated 18-12-2020, has already been submitted by the Investigating Police Officer in the Court below today. He has also referred to the written bail objection of the Investigating Police Officer. The written bail objection be kept in record.

The learned counsel for the petitioner has stressed on the fact that laying of charge-sheet is indicative of the fact that for the purpose of investigation, the petitioner is not required in custody. The learned Additional Public Prosecutor has resisted such submission, stating that charge-sheet filed within time is; rather, a ground for rejection of bail.

I have considered the rival submissions of the parties.

The offences alleged in this case had created a tremor in the State of Assam requiring the State to hold the examination for recruitment to the post of SI of Police afresh. The question paper for the said examination was leaked by the persons of authority and the petitioner is said to be connected with such persons, having nexus with the leaking of question paper. The nexus of the petitioner with the co-accused, who had played vital role in the commission of offence, has come out during investigation.

Therefore, considering the nature of offences and materials so far available before this Court and also considering the fact that charge-sheet has been laid against the petitioner, this Court is not inclined to grant bail to the petitioner at this stage.

Accordingly, the prayer for bail made by the accused-petitioner is **rejected**.

The bail application stands disposed of accordingly.

JUDGE

Comparing Assistant