GAHC010169992020

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

Case No. : Bail Appln./2607/2020

BHARGAV DEKA
S/O-SRI PADMA NATH DEKA, PERMANENT RESIDENT OF FLAT NO. 1-D, NABODAY APARTMENT, CHINAKI PATH, P.S. GEETANAGAR, GUWAHATI, DIST.- KAMRUP(M), ASSAM.

VERSUS

THE STATE OF ASSAM
REP. BY THE 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 : 09-12-2020

Heard Mr. K.N. Choudhury, learned Sr. counsel assisted by Mr. B. Borah and Mr. J. Roy, learned counsels appearing for the accused petitioner. Also Heard Mr. N.J. Dutta, learned Addl. P.P., Assam appearing for the State respondent.

By this petition under Section 439 Cr.P.C., the petitioner, namely **Bhargav Deka** has prayed for grant of bail in connection with **Azara P.S. Case No. 624/2020,** registered u/s

120B/419/420/406 of the IPC read with Section **66(D)** of the I.T. 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 *inter-alia*, that the accused has been in judicial custody for 40 days since 02.11.2020 despite being innocent. Mr. Choudhury further submits that if the allegations made in the F.I.R. are taken to be true, then also no offence under Section 420/406 of the IPC is made out and it is judicially settled that the aforesaid two offences cannot be invoked together. Mr. Choudhury also submits that the contents of the F.I.R. reveals that the primary allegation is cheating by personation of a candidate in JEE (Mains) Examination, 2020 with the help of invigilator by entering into criminal conspiracy, for which the specific provision is Section 419 of the IPC, which is a bailable offence. As such, Mr. Choudhury vehemently submits that further continuation of detention of the accused in judicial custody is not warranted.

Opposing the bail application, Mr. N.J. Dutta, learned Addl. P.P., Assam submits that the case diary including the statements under Section 164 Cr.P.C., *inter-alia,* reveals that the present accused and his associates used to counsel with the parents of the candidates as to how the candidates could pass out the JEE (Mains) Exam, 2020 engaging proxy candidates and for this purpose, they managed the office and invigilators of the examination centres and further, imported proxy candidates from outside the State of Assam through agents, who were primarily employees of the institution namely, Global Edu Light owned by the accused. Mr. Dutta further submits that the accused was directly involved in the aforesaid criminal conspiracy with his associates forming a widespread racket to facilitate engaging of proxy candidates in place of the genuine candidates to appear in the JEE (Mains) Examination, 2020 for their personal huge monetary gain. Mr. Dutta, therefore, submits that in the backdrop of gravity of the incriminating evidence against the accused petitioner and as a number of co-accused persons are yet to be arrested, release of him on bail may likely to cause hindrance in the smooth and fair investigation into the case.

The F.I.R. dated 23.10.2020 filed by one Mitradev Sarmah before the Officer-in-Charge of Azara P.S., Assam revealed the allegation that he received a complaint with some electronic evidence against a candidate namely Neel Nakshatra Das, who appeared in JEE Mains

examination on 05.09.2020 at Ion Digital Zone, Borjhar, Guwahati. It was also alleged that as per the evidence received the candidate himself revealed that he came out of the examination hall after doing Bio-Matrix with the help of an invigilator and in his place someone else appeared in the examination and the candidate obtained 99.8 percent without appearing in the examination. It was further alleged that the candidate revealed that an educational institution named Global Edu Light, Guwahati helped him in the entire process and his father had paid Rs.15 to 20 lakhs approx. for the said purpose, which showed that there was huge racket run by Global Edu Light involving invigilator of Ion Digital Zone, Borjhar, Guwahati.

Upon hearing the learned counsel of both sides and scrutiny of the case diary including the statements recorded under Section 164 Cr.P.C. and the bail objection filed by the investigating officer, it is revealed that the Govt. of Assam has constituted a Special Investigation Team (SIT) of police officers to investigate into the above case, which, it is suspected, involves a nationwide racket behind the scam in the JEE (Mains) Exam, 2020. A large number of relevant documents and materials are already seized and evidence of witnesses collected, which suggest foul play by outsiders including the present accused in JEE (Mains) Exam, 2020, held on 05.09.2020.

It may be stated that JEE (Mains) is a reputed entrance examination for engineering studies conducted all over India by National Testing Agency (NTA), which has been established as a premier, specialist, autonomous and self-sustained testing organization to conduct entrance examination for admission in higher educational institutions.

There is abundance of prima facie implicating evidence to show that the present accused hatched up a criminal conspiracy along with others including employees of Golbal Edu Light in impersonating candidates through proxy candidates imported even from outside the State of Assam in exchange of money. The case diary also reveals that the accused managed the office staff and invigilators of the examination centre to get through candidates in the JEE (Mains) Exam, 2020 by engaging such proxy candidates for huge personal monetary gain. A number of accused persons are yet to be arrested in connection with the case which involves great public interest and thus, the investigation is yet to be completed. Therefore, this Court is of the view that if the liberty of bail is granted to the accused at the

present crucial stage of investigation, the ongoing impartial and indepth investigation is likely to be adversely affected.

For the above stated reasons, the bail application stands **dismissed**.

As the accused is in judicial custody, the investigating officer is directed to expedite the investigation.

Return the case diary.

This disposes off the bail application.

JUDGE

Comparing Assistant