



CRM-M-46621-2022

Neutral Citation No.:2023:PHHC: 092628

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-46621-2022
Reserved on: 19.07.2023
Pronounced on: 21.07.2023

Gurmeet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ravinder Phogat, Advocate
for the petitioner.

Mr. Karunesh Kaushal, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
240	16.09.2021	Anaj Mandi, Patiala, District Patiala (Punjab)	420, 465, 438, 471, 120-B, 409 IPC 1860 and Section 66-D of Information Technology (Amendment) Act 2008

1. The petitioner apprehending arrest in the FIR captioned above, on the allegations of finding candidates who could solve the online question-paper of the examination for the recruitment of Police Sub Inspectors in the State of Punjab, and also running the center from where the examinations center was hacked, had come up before this Court under Section 438 CrPC seeking anticipatory bail. Vide order dated April 10, 2023, this court had granted interim bail.

2. In paragraph 27 of the bail petition, the accused declares that he has no criminal antecedents.

3. Petitioner's counsel argued that the custodial investigation would serve no purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The case of the prosecution is that the SHO, Police Station Anaaj Mandi, Patiala, had received secret information on 16.09.2021 that online examinations for recruitment of various departments were conducted at the center at Infra IT Solutions, Zila Parishad Complex, Patiala, and some hackers have hacked the computers. The informant further said that in the examination for the recruitment of Sub Inspectors, which was conducted



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in August 2021, one candidate Gurpreet Singh had secured the highest marks, and he had given his examination from the center of Infra IT Solutions, and further that the said person Gurpreet Singh had not secured marks because of merits but because a gang of cyber criminals had hacked computer centers and someone else had remotely solved his question paper, thus, he secured the highest marks by paying massive amounts of money to the cyber-thugs. Based on this information, the police registered an FIR and investigated. During the investigation, they arrested the said candidate Gurpreet Singh and conducted further investigations and kept arresting several people involved in such crimes. On 22.09.2021, one of the arrested accused, Ankit, informed the investigator about the involvement of the present petitioner. He further said that the petitioner used to make entries of the candidates in the center for examination. Subsequently, one Jasvir Kumar, who was running the center, left the center, and the present petitioner started running the computer center and looking after other affairs of the computer center.

5. This Court had directed the concerned Deputy Superintendent of Police to show the evidence collected against the present petitioner. The concerned Deputy Superintendent of Police filed his affidavit dated 06.07.2023, and such evidence has been referred to in the affidavit. A perusal of the affidavit reveals that the investigator is able to collect sufficient prima facie evidence against the petitioner, which indicates about his making entries in the call center, and after Jasvir Kumar had left the center, and that the petitioner was running the aforesaid computer center from which the examination of recruitment for Sub Inspectors, was hacked.

6. Counsel appearing for the State further argued that complying with the observations made by this court, the police are still investigating and have got prima facie evidence of many communications and transactions between the petitioner and other accused linking his involvement with the offense described above. In the affidavit filed by the Deputy Superintendent of Police, it is stated that they want the custodial investigation to know the role of other people involved in the recruitment scams, including the beneficiaries, and this scam has already derailed the recruitment process for Sub Inspectors.

7. Petitioner seeks bail firstly on the ground that the evidence collected against him is the disclosure statement of accused Ankit, who was further mentioned as accused in the disclosure statement of Laveneesh Gupta, and this evidence is inadmissible.

8. This Court is not considering the evidence qua disclosure statement, but the evidence collected after such disclosure statements which point out three relevant facts:-



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- (i) The petitioner had worked with the said centre.
- (ii) After Jasvir Kumar left the centre, the petitioner had worked there.
- (iii) There are various communications between the petitioner and other accused which the petitioner had failed to explain.

9. The petitioner seeks bail on the grounds of parity with the co-accused, who were granted bail vide order dated 21.03.2022 passed in CRM-M-3028-2022 and connected cases. A perusal of this order reveals that these co-accused were granted regular bail under Section 439 CrPC, and one ground for their bail was prolonged custody. On the contrary, the petitioner is seeking anticipatory bail; as such, he is not entitled to bail on parity. Even if one or two accused have been given anticipatory bail either because of lack of evidence against them collected at that point or because specific evidence was not brought to the Court's notice, it would not entitle the petitioner to seek bail on the grounds of parity.

10. The allegations against the petitioner and co-accused are grave. There is sufficient evidence that the candidates who had appeared from the said center had got suspiciously more marks than their calibre. The evidence collected so far points out the petitioner's involvement. Given the nature of allegations, custodial interrogation is required. An analysis of the allegations and evidence collected does not warrant the grant of bail to the petitioner.

11. In *Jai Prakash Singh v. State of Bihar and another* (2012) 4 SCC 379, Hon'ble Supreme Court holds,

[19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroled in the crime and would not misuse his liberty. [See *D.K. Ganesh Babu v. P.T. Manokaran* (2007) 4 SCC 434, *State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain* (2008) 1 SCC 213 and *Union of India v. PadamNarain Aggarwal* (2008) 13 SCC 305].

12. In *State rep. by CBI v. Anil Sharma*, (1997) 7 SCC 187, Hon'ble Supreme Court holds,

[6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a



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pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

13. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage.

14. Any observation made hereinabove is neither an expression of opinion on the case's merits, neither the court taking up regular bail nor the trial Court shall advert to these comments.

15. This court will fail in its duty if it closes this order at this point. If this scam had not come to light, so many corrupt and unethical people would have got appointed to the sensitive post of Sub Inspector by giving money, and it can be well imagined what kind of officers they would have become and how much injustice such officers would have caused to the communities and the State. We must realize that because of the hacking, a highly sensitive and essential recruitment in the police, not only got impaired but also got derailed. It also exposed the vulnerability of the examination system and the usage of breach-able and unsafe software. It is for the Executive to ensure that software used for such sensitive matters is fool-proof as well as secured and its code is written considering the present-day exponential technological advancements and to prevent the misuse of artificial intelligence by hackers. There can be no leniency while dealing with bail petitions of cyber-thugs in the matters of cyber-crime. Cyber criminals must be dealt with stringently and custodial interrogation of these cyber thugs in these kinds of sensitive matters is required not only to unfold the involvement of other persons but also to find out the vulnerability in the systems to stop future breaches.

Petition dismissed in aforesaid terms. Interim order is recalled. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

21.07.2023
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.