

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-31661 of 2015

DATE OF DECISION: 24.09.2015

Archit Sharma

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. **Whether reporters of local newspaper may be allowed to see judgment? (Yes/No)**
2. **To be referred to reporters or not? (Yes/No)**
3. **Whether the judgment should be reported in the Digest? (Yes/No)**

Present:- Mr. S.D. Sharma, Senior Advocate with
Mr. Anupam Sharma, Advocate
for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 120 dated 16.12.2014 registered under Sections 406,408,420,465,466,467,471,120-B IPC and Section 66 of the AIT Act at Police Station Sadar, Phagwara.

Learned senior counsel for the petitioner contends that the petitioner is a young person of 27 years of age and after doing his MBA, he has joined the Lovely Professional University, Phagwara in the month of 2014. Learned senior counsel further contends that the petitioner was deputed as an Observer for the conduct of distance examination and nothing is to be recovered from him. The whole career of the petitioner is

at stake and he is ready to join investigation. The co-accused of the petitioner, namely, Vinod Sharma has been granted bail and as such the petitioner is also entitled for bail.

Learned counsel for the respondent-State submits that serious allegations are there against the petitioner and he cannot claim parity with co-accused Vinod Sharma as all the question papers were stored in the laptop by the petitioner and the same were distributed amongst the students before start of the examination. He further submits that the petitioner does not deserve the concession of anticipatory bail keeping in view the specific allegations.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR.

As per allegations in the FIR, the petitioner was working as an Assistant Project Officer in Lovely Professional University, Phagwara and was deputed as an Observer for Distance Examination centre at Samrala for the End Term Examination, which commenced on 9.12.2014. Before start of the examination, a software, namely, 'Delauncher' was installed on the laptop of the concerned Observers and all the question papers were stored in it in encrypted form. A password was also sent to the Observers through SMS at their registered mobile numbers by the University before start of the examination and by punching that password into the software, one could download/access the relevant question paper. The petitioner downloaded the question papers, drafted the email and attached the question papers on an email id Sunnygoyal1286@gmail.com, which was created unofficially. The flying squad was being deputed by the University during examination days to check the irregularities, if any committed during, before and after the conduct of the examination. During surprise check by the flying squad, it was noticed that some of the students were

having question papers of the course titled "Political Structure in India" even prior to distribution of question papers in the examination hall along with their answers. It was found that the petitioner kept the question papers with him in a drafted email, attached the same on an email id, which was created unofficially and passed the same to co-accused-Vinod Sharma for consideration of ₹ 30,000/- for its further distribution to the students by unfair means. In this way, the question papers were leaked by the petitioner even before start of the examination.

The bail has been claimed by the petitioner only on the ground that co-accused, namely, Vinod Sharma has been granted anticipatory bail vide order dated 25.2.2015. The petitioner cannot claim parity with co-accused-Vinod Sharma as specific role has been attributed to the petitioner as he has not only distributed the question papers but has also sold them to co-accused and other candidates that too before commencement of the examination. While granting benefit of anticipatory bail, the facts, specific role as well as nature of the offence are to be seen.

Accordingly, keeping in view the nature of allegations as well as specific role attributed to the petitioner, no ground is made out to grant anticipatory bail. Hence, the present petition being devoid of any merit is hereby dismissed.

September 24, 2015
pooja

(DAYA CHAUDHARY)
JUDGE