

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

CRM-M-33455-2015 (O&M)

Date of Decision: September 30, 2015

Bilal-A-Hamidi

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Satish Chaudhary, Advocate
for the petitioner.

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- 1. Whether Reporters of local papers may be allowed to see the judgment ? yes**
- 2. To be referred to the Reporters or not ? yes**
- 3. Whether the judgment should be reported in the Digest? yes**

NARESH KUMAR SANGHI, J.(Oral)

Prayer in this petition filed under Section 438, Cr. P.C., is for grant of anticipatory bail to the petitioner, Bilal A. Hamidi, who has been booked for having committed the offences punishable under Sections 120-B, 420, 467, 468 and 471, IPC, and Section 10-A of the Indian Medical Council Act, 1956, in a case arising out of FIR No. 31, dated 13.02.2015, registered at Police Station, Ferozepur Jhirka, District Mewat.

Learned counsel for the petitioner submits that as per

provisions contained in Section 39, Cr. P.C., the informant was not competent to lodge the FIR in the case in hand; as per Section 10 of the National Commission for Minority Educational Institutions Act, 2004 (for brevity, 'the 2004 Act') there was no requirement for the petitioner to obtain the necessary permission from Medical Council of India to run a Medical College; the students, who had obtained the admission in the Medical College, had no grievance against the petitioner; the students were well aware of the fact that the necessary permission would be granted to the petitioner to run a Medical College; provisional affiliation was granted by International Study, Australia, to the petitioner to run a Medical College; even the Minority Commission of India had granted permission to the petitioner to run the Medical College and that from the perusal of the FIR, no offence for which the petitioner has been booked is made out.

I have heard learned counsel for the petitioner and with his able assistance gone through the material available on record.

In nutshell, the case of the prosecution is that the petitioner, Bilal A. Hamidi, is running a fake Medical College under the name Dr. Shahrukh Khan Medical College and Hospital

at Ferozepur Jhirka, District Mewat, for the last two sessions, i.e. 2013-14 and 2014-15. He offered the admission to 200 students every year, but there was neither any faculty to teach the said students nor the classes were arranged for a single day. Even the necessary permission was not obtained from the Medical Council of India to run a Medical College. The alleged Medical College was not even attached with a Hospital. The informant obtained the necessary information from the Medical Council of India to the effect that no permission was granted to the petitioner to run the Medical College. At the behest of the petitioner, the advertisement of the College was published in the National Newspapers of Hindi and Urdu Editions. An amount of ₹8,00,000/- (Rupees eight lacs only) was charged from each student in the session 2013-14. In the session 2014-15, the amount was reduced to ₹3,00,000/- (Rupees three lacs only) per student. Prior to shifting the Medical College to Ferozepur Jhirka, the petitioner was running the same Medical College without permission from Medical Council of India at Noida (Uttar Pradesh) and thereafter in Faridabad (Haryana) in rented accommodations. Despite demand, the petitioner failed to return the fee to the students except to two students. The amount from

the students was being received by way of demand drafts and cheques, etc. and the same were being deposited in Account No.2823101002242, a Branch of the Canara Bank at New Friends Colony, New Delhi. The petitioner had opened about a dozen of accounts in various banks. The submission of the learned counsel for the petitioner is that the informant was not competent to lodge the FIR of the case in hand has no legs to stand. Most of the offences, for which the petitioner has been booked, are cognizable offences. Any person, even though he is not an aggrieved of the commission of offences committed by the petitioner, can report the matter to the police and, as such, the reference to Section 39, Cr.P.C., would not help the petitioner.

In the matter of the **State of Gujarat vs Anirudh Singh**, 1997 (6) Supreme Court Cases 514, Hon'ble the Supreme Court held that every citizen, who has knowledge of the commission of cognizable offence has a duty to lay information before the police and cooperate with the Investigating Officer, who is enjoined to collect the evidence and if necessary, summon the witnesses to give evidence. It was further held that every citizen, who assists the investigation is further duty bound to appear before the Court of Session or competent Criminal Court,

tender his ocular evidence as a dutiful and truthful citizen to unfold the prosecution case as given in his statement.

So far as the argument of learned counsel for the petitioner regarding Section 10 of the 2004 Act is concerned, the same would also be of no help to the petitioner. The opening line of the Said Section is *subject to the provisions contained in any other law for the time being in force.....*, which clearly spell out that right to establish a minority educational institution is subject to the provisions contained in any other law. Even otherwise on the asking of the Court learned counsel for the petitioner could not show any permission granted by the Minority Commission to run the Medical College by the petitioner. So far as the submission of the learned counsel for the petitioner that provisional affiliation was granted to the petitioner to run a Medical College is concerned, the same is also without any force. When it was repeatedly asked to show that provisional permission, then the learned counsel replied that an application for grant of permission was presented before the Medical Council of India.

Further submission of the learned counsel for the petitioner that students who got admission had no grievance

against the petitioner would not be a ground to grant bail to the petitioner. The Court is much more conscious about the future of the students of this country than the students themselves. No person in India can be permitted to play with the future of the students.

From the contents of the FIR and the other material available on record, it is clearly made out that essential ingredients of the offences for which the petitioner has been booked are clearly made out.

In view of the totality of the facts and circumstances of the case, this Court is of the considered opinion that custodial interrogation of the petitioner would facilitate the investigating agency to unveil the real facts and bring the truth on record. Learned Additional Sessions Judge has assigned cogent reason while rejecting the prayer for grant of anticipatory bail to the petitioner and, as such, the present petition fails and is hereby rejected.

September 30, 2015
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(NARESH KUMAR SANGHI)
JUDGE