

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

Date of Decision: August 22, 2016

1. CRM M-3707 of 2016
Rajender Singh Galahayan
.....Petitioner

Vs.

State of Haryana
.....Respondent

2. CRM M-4142 of 2016
Pavitar Gulia
.....Petitioner

Vs.

State of Haryana
.....Respondent

3. CRM M-4757 of 2016
Ajay Kumar and another
.....Petitioners

Vs.

State of Haryana
.....Respondent

4. CRM M-5776 of 2016
Amarjit @ Amit
.....Petitioner

Vs.

State of Haryana

.....Respondent

5.

CRM M-9255 of 2016

Rajiv Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. Akshay Bhan, Sr. advocate with
Mr. Aayush Gupta, Advocate for the petitioner in
CRM M-3707 of 2016.

Mr. J.S. Bedi, Sr. Advocate with
Mr. Harpreet Multani, Advocate for the petitioner in
CRM M-4142 of 2016.

Mr. P.K. Hooda, Advocate for the petitioners in
CRM M-4757 of 2016.

Mr. Abhilaksh Grover, Advocate for the petitioner in
CRM M-5776 of 2016.

Mr. B.S. Rana, Sr. Advocate with
Mr. R.S. Malik, Advocate for the petitioner in
CRM M-9255 of 2016

Mr. Kuldeep Tiwari, Addl.A.G., Haryana.

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M.M.S. BEDI, J.

This order will dispose of five petitions bearing CRM M-3707,
M-4142, M-4757, M-5776 and M-9255 of 2016 for grant of pre-arrest bail.

The FIR was registered at the instance of Inspector Tejbir Singh alleging

that pursuant to a secret information, he apprehended Amit and Raghubir who were found sitting in a car and sending the answer keys of Haryana Teachers Eligibility Test, Level 3 examination (for short 'the HTET') to the students who were appearing for it through whatsapp messages. The police informed the District Education Officer and it was found that the question paper and answer keys were matching. Disclosure statements of Amit and Raghubir were recorded resulting in indicting Sandeep, Devender, Munit, Ravi and Vikas, who were arrested.

The petitions of the petitioners have been opposed by the State counsel by informing that 14 accused have already been arrested in this case whose names are Sandeep, Amit, Raghubir, Ravi Dabas, Munit, Devinder, Vikas, Rajesh Khasa, Sanjeet, Sachin Dabas, Nitesh Kumar, Parveen Dahiya, Gaurav and Rajinder Singh. Challan was presented against them on February 15, 2016. The above said accused have been arrested on the basis of the information supplied by Amit and Raghubir. Their mobile phones have been checked and on checking the answer key of HTET paper it was found to have been loaded on the mobiles. Raghubir contacted with Munit resident of Chandigarh who shared the answer keys on whatsapp after making a conversation with his mobile. Thereafter Amit disclosed that Sandeep son of Mahabir, resident of Uchana who was appearing in the HTET examination had forwarded the answer key at his whatsapp upon which the prosecution agency arrested Sandeep. Sandeep had made a disclosure statement that Amit Sharma resident of Durjanpur had forwarded answer key to him. Upon this a case was registered and Special Investigation Team was constituted. During investigation it was also found

that wife of Raghubir Singh was to appear in the examination and mobile from where the answer key was forwarded was registered in the name of Ravi Kumar of Chandpura. On November 14, 2015, Sandeep, Amit and Raghubir were arrested and they were taken on three days' police remand. On interrogation, it was found that Raghubir Singh resident of Narwana was serving in National Sample Surveyor Office (NSSO), Chandigarh as Assistant Superintendent and Munit son of Inderjit resident of Beri, District Jhajjar is also serving with him as Clerk. Ravi, friend of Munit is resident of Chandpura Delhi. Munit and Davinder and Davinder and Ravi were also fast friends. Munit from Davinder and Devinder after making contact from Ravi Dabas, came in contact with Raghubir and Ravi Dabas, resident of Chandpura. Upon which, Ravi Dabas from his phone, sent the answer key on mobile of Raghubir Singh, resident of Narwana. During the course of investigation it also transpired that Parveen Dahiya had sent the answer keys to the mobile of Ravi Dabas.

So far as petitioners are concerned, their arrest is still pending. On investigation it was found that the question paper of HTET exams was leaked from Indian Modern Senior Secondary School, Sonapat in which Rajinder Singh Randhawa, Paviter Gulia, Rajender Singh Ghalayan, Pawan, Ajay, Amarjeet and others played key role. The question paper was solved by some unknown persons. During investigation, it has been found that accused Nitesh created a whatsapp group in the name of 'Chandnichowk'. On the asking of his uncle Pawan and Nitesh himself remained the group admin. Gaurav the acquaintance of Pawan gave 40 contacts to be added in this group and 20 contacts were given by Pawan. Pawan flashed the answer

key at the number of Nitesh who further downloaded/ flashed the answer key on Chandnichowk whatsapp group. Amit Dahiya who has not yet been arrested got introduced Parveen Dahiya in the group through Gaurav but Gaurav was not active member of the group. On account of above, the answer key went viral on different whatsapp groups. During investigation, mobile phone of 14 accused were taken into police possession vide separate recovery memo and same were sent to Central Forensic Science Laboratory, Chandigarh for examination of the same. As per the report of CFSL, Chandigarh, recovery of images of solved question papers and manually prepared key has been detected from the mobile phones of accused Amit and Raghubir.

From the perusal of those images, it was revealed that there was a specific cut mark in the middle of the question paper. The images of solved question paper detected from the mobile of Amit and Raghubir were duly compared with the original question paper which was got deposited with the Board of School Education, Haryana, Bhiwani by the concerned Centre and the same were found in same pattern and style i.e. cut in the middle of the paper. Mr.Waseem Akram, IPS, Assistant Superintendent of Police, Narwana has further brought to the notice of the Court that on examination of the images and matching of the images and the seized left over question booklets/ OMR sheets, clearly established that the question paper was leaked from Indian Modern Senior Secondary School, Sonapat, where petitioner Rajinder Singh Galahayan was deputed as Centre Incharge. Allegation against Rajinder Singh Galahayan is that he is the Principal of Indian Modern Senior Secondary School, Sonapat and was incharge to

conduct HTET examination. He was in possession of the sealed question papers kept in a card board box and these were placed in the Biology lab of the School. He facilitated in leakage of question paper by cutting card board box through a knife as a result of which similar cuttings were found on the papers.

So far as petitioner Ajay Kumar and Pawan Kumar are concerned, they have been involved in the case on the basis of the statement of one Nitesh who disclosed that the petitioners were working as JBT Teachers and that they made a group on whatsapp and the petitioners sent answer keys of question paper of HTET level examination to Nitesh, nephew of the petitioners.

So far as petitioner Pavitar Gulia is concerned, he was appointed as Observer and was Secretary in Municipal Committee, Gohana. His duty was to deliver the box containing question papers at respective Centres of HTET exam. He in connivance with co-accused Rajinder Singh had extracted one question paper while it was being delivered to the Principal by the petitioner and he had also got the photocopy of the question paper and sent it to the other co-accused. He also destroyed the mobile phone used by his co-accused Rajinder Randhawa.

So far as petitioner Amarjit @ Amit is concerned, he has been involved in the case on the basis of disclosure statement of Sandeep to the effect that petitioner Amit who is running a Coaching Centre at Uchana sent the answer keys to him on mobile.

So far as petitioner Rajiv Kumar is concerned, he was involved in the case on the basis of the disclosure statement of co-accused Rajinder

Singh Randhawa. The said petitioner was appointed as Observer to supervise the candidates who were appearing in HTET exam at Indian Modern Senior Secondary School, Sonapat. He had made several calls on the telephone of co-accused Pavitar Gulia. Further Rajinder Singh disclosed that when he was hiding in a farm house of Pavitar Gulia, petitioner Rajiv Kumar has come to meet him.

Mr. J.S. Bedi, Sr. Advocate has contended that the petitioner Pavitar Gulia has been falsely implicated in the case. He was the Observer and is Secretary in the Municipal Committee, Gohana. His connivance with other accused is not established and that the story of the prosecution is absolutely impossible that within a short duration, the question paper leaked was solved and was brought to the notice of the interested persons. He submitted that it is not a case where any benefit has been obtained by the petitioner.

Similarly Mr. Akshay Bhan, Senior Advocate appearing on behalf of petitioner-Rajender Singh Galahayan has submitted that the said petitioner is Principal of Indian Modern Senior Secondary School, Sonapat and was Superintendent Incharge for conduct of the examination. He has wrongly been involved for having facilitated the leakage of question appear or being responsible for cutting the card board box with knife.

I have also heard counsel for petitioners-Ajay Kumar, Amarjit Singh and Rajiv Kumar.

A perusal of the police file indicates that one Surinder Kumar had made a statement under Section 164 Cr.P.C. on July 16, 2016 to the effect that he was Board observer in 2015 and on November 14, 2015 he had

reached Treasury, Sonapat where number of staff members were present whereas Pavitar Gulia was appointed as Observer. He had taken the parcel of question papers in bag against his signatures. A vehicle was to be arranged by him but Pavitar Gulia told him that the papers should be kept in his vehicle otherwise they would get late. Thereafter he said that another member of the Committee should also be taken in the Car. On this Dharamvir reached there after 15/20 minutes. Thereafter Surinder Kumar along with Pavitar Gulia in a separate car went to the examination centre. On the way from Treasury to examination centre, Pavitar Gulia continued to talk on mobile phone. An entry was made at 2.15 p.m. in Indian Modern Senior Secondary School, Sonapat. Pavitar Gulia did not permit him to pick the bag of question papers and asked the Peon to pick the bag of question papers and kept the same in a room. 2/3 other persons also came there. They were Rajinder Singh Randhawa, Rajinder Singh Galahayan, and Rajiv Dahiya. After sitting for some time, Pavitar Gulia asked him that there was some problem regarding some entries. Thereafter Surinder Kumar was sent to solve the problem. After handing over the question papers to Pavitar Gulia, he had gone down stairs. Videography at the time of opening of the seal had taken place on the ground floor. As there were two persons doing videography, he had asked them to go on upstairs Centre where the seal opening was to be covered as such one photographer had gone upstairs and Surinder Kumar found that when he reached upstairs, seal of the question papers had already been opened and Rajinder Singh Randhawa, Rajinder Singh Galayahan and Rajiv Dahiya were present there. So he did not see videography being done but on asking from Rajinder Singh Randhawa it was

informed that videography had not been done while opening the question papers. He later came to know that from Jind HTET paper had been leaked.

No doubt, the petitioners have joined investigation but the evidence which has been gathered reflects that the question paper was leaked from the Centre-Indian Modern Senior Secondary School, Sonapat where no photography had been done. The photographs of the leaked paper which were taken out of the box by cutting the upper part of the cart board cover was photographed and circulated. Answer key to the question paper was also circulated through whatsapp. The involvement of each of the petitioners is indicated during the course of investigation. No extraordinary exceptional circumstances exist to grant the concession of pre-arrest bail to the petitioners who are responsible for leakage of the paper which has got serious consequences regarding selection of the candidates on merits. For effective investigation, grant of anticipatory bail to the petitioners will have adverse effect. The arguments raised by counsel for the petitioners may constitute a good ground for grant of regular bail but at this stage, when the investigation regarding the scam of leakage of papers is in progress, no ground is made out to grant the concession of pre-arrest bail to the petitioners.

All the five petitions are dismissed.

August 22, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.