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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1129/2016**

LALIT SAINI

..... Petitioner

Through: Mr. Manmeet Singh & Mr. Kunal
Aganpal, Advocates.

versus

STATE (NCT)

..... Respondent

Through: Mr. Mukesh Kumar, APP along with
ASI Satyender Singh, ISC, Crime
Branch, for the State.

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
05.12.2016

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1. The petitioner has preferred the present bail application under Section 438 Cr.P.C. to seek anticipatory bail in case FIR No.19/2016 registered at PS-Crime Branch under Section 420/ 468/ 471 IPC.
2. The case of the prosecution is that on an information being received by the Inter-State Cell of Crime Branch to the effect that a person having his office at Amar Colony, Lajpat Nagar, Delhi is engaged in providing fake/ bogus degrees of different universities, a DD entry No.8 dated 16.12.2015 was entered. On 02.01.2016, a secret informer provided information that

one Radhey Shyam Saini was running an institute at C-26, Second Floor, Amar Colony, Lajpat Nagar, Delhi under the name & style of M/s Pratham Education and he agreed to provide a fake/ bogus degree for Rs.50,000/-. The said information was conveyed to the senior officers and it was decided that Constable Surender Kumar of Inter-State Cell shall approach the said Radhey Shyam Saini, as a decoy customer for obtaining a fake BBA degree in his name. As planned, the Constable Surender Kumar approached Radhey Shyam Saini as a decoy customer, who demanded Rs.15,000 as advance, which was paid on 02.01.2016 by a cheque from the account of Constable Surender Kumar. The said cheque was encashed by Mr. Radhey Shyam Saini. On 16.02.2016, the said Radhey Shyam Saini called the decoy customer and told that his degree is ready and the same could be collected from his office after paying the balance amount of Rs.35,000/-. Accordingly, another cheque of Rs.35,000/- was prepared from the account of ASI Satyender Singh, which was given to Constable Surender Kumar for handing over the same to the accused Radhey Shyam Saini. In order to nab the accused, a raiding party was organised and, accordingly, Radhey Shyam Saini was nabbed and cheque of Rs.35,000/- drawn on Axis Bank, which was prepared from the account of ASI Satyender Singh, was recovered. Four Mark sheets of Monad University, Hapur Road, Ghaziabad in the name of Surender Kumar were also recovered and the aforesaid FIR came to be registered by the Crime Branch. Accused Radhey Shyam Saini was arrested.

3. During investigation, it was revealed that the petitioner and one Kapil Saini, who are relatives of the accused Radhey Shyam Saini, were also

involved in the said fake degree racket. The amounts collected by Radhey Shyam Saini were deposited in the accounts of Lalit Saini and Kapil Saini. There was a fourth accused, namely, Monu Kumar, who was an employee of Radhey Shyam Saini, who used to print the fake/ bogus decree on the computer/ printer installed in the office of Radhey Shyam Saini. The petitioner did not join the investigation and absconded. NBWs were obtained on 21.03.2016. During this period, he moved the Court of Sessions to seek anticipatory bail, which was dismissed by the learned ASJ on 19.04.2016. Process under Section 82 Cr.P.C. was initiated against the petitioner on 21.04.2016, and at this stage, he preferred the present bail application.

4. The petitioner was granted interim bail initially vide order dated 27.05.2016 on the condition that he shall join the investigation on 28.05.2016. The said order has been continuing since then. The status report discloses that the petitioner joined the investigation on 28.05.2016 and even thereafter. During the course of investigation, the hard disk of the computer was seized. However, the printer and cash book could not be recovered.

5. The status report dated 02.08.2016 states that the petitioner was found involved in the racket of preparation and supply of fake/ bogus marks sheets of different universities, i.e. Monad University, Sun Rise University, Jodhpur National University, The Global Open University, Sobhit University, EIILM Sikkim University, CMJ University, Shridhar University–Pilani & Manav Bharti University. On 08.08.2016, the Court was informed that the printer and the cash book had yet to be recovered.

6. The further status report dated 17.11.2016 discloses that the petitioner accused and his maternal uncle Radhey Shyam Saini produced the printer used by them but the receipt book, and in particular, receipt PE 14, S. No.306 issued in the name of Surender Kumar were not produced by the accused despite the written assurance given by them earlier. The second status report also notes that during the investigation, the I.O. visited the office of the petitioner/ accused and recovered 52 receipts. On inquiry from the accused about the said receipts, he could not give a satisfactory reply as to for what purpose the said receipts were issued and were in his office. On a query by the Court, it is informed that these receipts have been issued in the name of Pacific Institute of Engineering & Management and Imperial Education. The address of both the institutions are:

Pacific Institute of Engineering & Management, L-6 LGF, Lajpat Nagar III, and;

Imperial Education, C-109, LGF Lajpat Nagar Part-I, Delhi & Pratham Education, C-26, Second Floor, Amar Colony, Lajpat Nagar, Delhi

7. Learned counsel for the petitioner has submitted that the petitioner has no concern with M/s Pratham Education. It is argued that the petitioner started the said institution. However, since 2012, the petitioner has no concern therewith and even the bank operation has been done by Radhey Shyam Saini. Mr. Singh has submitted that the petitioner is not possessed of the receipt book and it is Radhey Shyam Saini, who is in possession thereof. It is further submitted that the petitioner needs time to produce information

with regard to the 52 receipts which, in any event, have not been issued in the name of M/s Pratham Education. He submits that it is M/s Pratham Education, which is under investigation and not his institutions, namely, Pacific Institute of Engineering & Management and M/s Imperial Education. Mr. Singh submits that the petitioner has fully cooperated with the investigation and there is no need for his custodial interrogation.

8. On the other hand, Mr. Mukesh Kumar has submitted that the present case involves a major scam as very large number of fake degrees have been prepared and sold for consideration. The involvement of the petitioner is indicated by the fact that he took away the belongings of the institution when the raid was conducted. It is the petitioner, who had started the said institution. The main accused Radhey Shyam Saini is his maternal uncle. There is nothing to show that the petitioner has transferred the ownership of M/s. Pratham Education.

9. Having heard, learned counsel for the petitioner, the learned APP and gone through the FIR and the status reports, I am of the view that the petitioner is not entitled to pre-arrest bail. Though the petitioner has joined the investigation, it is well-settled that effective interrogation may not be possible while the accused enjoys the protection against arrest. The allegations in the FIR are rather serious, as the allegations are of running an illegal racket of issuing fake degrees. Such an activity has very damaging consequences on the society as meritorious students, who are genuinely more deserving, loose out to students who thrive on false and fabricated degrees and mark sheets. The accused has a lot of explanation to do. There is nothing to show how he has transferred his interest in M/s. Pratham

Education to his uncle Radhey Shyam Saini. The main accused Radhey Shyam Saini has been released on regular bail and it appears that the petitioner is now trying to shift the blame by claiming that the receipt book is with Radhey Shyam Saini. Pertinently, Radhey Shyam Saini has not produced the same.

10. In these circumstances, I am not inclined to grant any protection to the petitioner. The petition is, accordingly, dismissed.

11. In view of the statement of learned counsel for the complainant, that Radhey Shyam Saini is not producing the receipt book, issue court notice to Mr. Radhey Shyam Saini requiring him to show cause as to why his regular bail should not be cancelled, returnable on 16.02.2017. The Court notice be taken dasti and be served through the IO concerned.

VIPIN SANGHI, J

DECEMBER 05, 2016

B.S. Rohella