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

DECIDED ON : FEBRUARY 10, 2017.

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BAIL APPLN. 1468/2016

MANISH KUMAR TIWARI

..... Petitioner

Through : Mr.Prabhat Kumar, Advocate with
Mr.R.P.Singh & Mr.K.K.Singh,
Advocates.

VERSUS

STATE

..... Respondent

Through : Mr.Amit Gupta, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.GARG, J. (ORAL)

1. The petitioner seeks anticipatory bail in case FIR No.0041/2016 registered under Sections 406/407/408/409/120B IPC at Police Station Crime Branch. Status report/Additional status report are on record.
2. I have heard the learned counsel for the parties and have examined the file. Information was received at ISC, Crime Branch that a question paper for examination for Sub-Inspector in Delhi Police etc. held on 20.03.2016, conducted by Staff Selection Commission (SSC) was leaked

and consequently cancelled by the Commission. FIR in question was registered on the complaint lodged by Insp.Sanjeev Kumar.

3. During investigation, it emerged that three different sources had given information about the leakage of the question paper and its answer key. On 21.03.2016 at 08.49 a.m. one Mohit Mudgal had sent an email to SCC/North West Region (Chandigarh) informing about the leakage of question paper. The said individual was identified to be a serving constable in Delhi Police who was to take exam on 20.03.2016. He had joined Paramount Coaching Centre, Uttam Nagar for coaching of SCC-CGL Exam. On 20.03.2016 at about 9.30 a.m. a post was posted by mobile No.9199905576 on WhatsApp group “My Students of Uttam Nagar” being run by one Abhishek, a teacher of Paramount Coaching Centre. Constable Mohit Mudgal made a complaint to SSC about the leakage of question paper.

4. Status report reveals that on enquiry, Abhishek Ajay, informed that he had created the said group with an intention to provide necessary information to the students studying at Paramount Coaching Centre. He informed that Bipin Kumar, group member, had posted the question paper in the group. Subsequently, a team was sent to Siwan, Bihar and raids were conducted at various places in search of Bipin Kumar. He disclosed of his taking classes at Paramount Coaching Centre, Uttam Nagar. He further informed that on 20.03.2016, he along with his senior, Sonu Singh was present in village Pratapur, Distt.Siwan Bihar. Sonu Singh had received a question paper of SCC on WhatsApp from someone. Sonu Singh called back the concerned person and enquired about the message received i.e. question paper. After talking to the concerned person, Sonu Singh told him

that it was SSC exam question paper scheduled to be held that day. He asked Sonu Singh to forward the said question paper on his number and thus, the said question paper was received by him from Sonu Singh via WhatsApp and he forwarded it in the group. He had given the requisite information about Sonu Singh and his mobile No.8539853744.

5. Sonu Singh was apprehended and examined. He disclosed that on 20.03.2016, he had received the said question paper from the petitioner Manish Tiwari who was his junior in the school and was classmate of his younger brother. On receipt of the question paper from the petitioner, he had called him to enquire as to which exam that question paper related to. The petitioner informed that it was a question paper of SSC exam which was to be held that day. The petitioner also told Sonu Singh that he had received the question paper and if he could arrange few students, they both could reap benefit. But he did not pay any heed to his words and forwarded the same to Bipin Kumar, who was taking coaching classes of SSC exam.

6. During further investigation, mobile numbers were analyzed and it was found that the petitioner resident of Village and Post Bharatpur was using Mobile number being used for forwarding the question paper to Sonu Singh.

7. Vide order dated 25.07.2016, the petitioner was granted interim protection and he was directed to join the investigation. State was directed to file additional status report indicating as to who were the users of mobile numbers 7033011011, 8539853744 and 9939937989. Additional status report has since been filed. It reveals that Mobile No.7033011011 was in the name of the petitioner, the petitioner did not deny it. It further shows that this mobile number was with the petitioner since 2015 and in January,

2016 the petitioner remained in Mukharji Nagr, Delhi, with this mobile number. It is in the name of Sant Kumar Tiwari, petitioner's relative. It was activated on 04.12.2015. It further reveals that IMEI's of the Handset used for this numbers and the dates on which such handsets were used were detailed in para 4 of the additional status report. This mobile number was found switched off during the period from 18.03.2016 to 3.4.2016.

8. Regarding Mobile No.9939937989, additional status report reveals that it was found in the name of Mahanarayan Tiwari of Fatehpur, distt.Siwan, Bihar. During investigation, it revealed that this number was used by the petitioner Manish Kumar Tiwari, Mahanarayan Tiwari's cousin. IMEI No.353525061358710 was used for this mobile number. It was used from 4.1.2016 to 16.04.2016. On 20.03.2016 its location was at village Tarwara, Distt.Siwan.

9. Regarding Mobile No.8539853744, it was found to be in the name of Jitendra Prashad of Distt.Siwan, Bihar. IMEI No.353525061358710 was used by the petitioner from 25.01.2016.

10. It was ascertained that all these three numbers were used in a common mobile handset bearing IMEI No. 353525061358710 at one point of time or the other. Apparently, the petitioner had used these numbers at different dates and time and has presented incorrect facts about its user.

No ulterior motive has been assigned to Sonu Singh for giving false information about the receipt of WhatsApp message from the petitioner. The police file contains a letter from Anand Tiwari to the investigating agency whereby he informed that mobile No.9939937989 was issued in the name of his father and it was being used by the petitioner Manish Kumar Tiwari. Statements of Bipin Kumar and Sonu Singh recorded

on 15.04.2016 are crucial. Sonu Singh familiar with the petitioner has categorically stated to have received the question paper on his mobile from the petitioner.

11. Considering the gravity of the offence and serious allegations whereby question paper of a renowned institution was leaked causing great harassment and inconvenience to large number of bona fide candidates, it is not a fit case for grant of anticipatory bail where the conspiracy about the leakage of question paper is to be unearthed.

12. The bail application is dismissed.

13. Observations in the order shall have no impact on the merits of the case.

(S.P.GARG)
JUDGE

FEBRUARY 10, 2017
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