

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.56221 of 2017

Arising Out of PS.Case No. -44 Year- 2017 Thana -AGAMKUAN District- PATNA

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1. Ajay Kumar @ Ajay Kashyap, Son of Sri Rudrapratap, Resident of Village-Chhokera-Serpur, P.S.-Mondua, District-Ambadkar Nagar (UP) at present residing at M-153, Ridham Apartment, GIDC, Naroda, Ingal Sol Rand, P.S.-Naroda, District-Ahmedabad.

.... Petitioner

Versus

1. The State of Bihar through A. D. J. Vigilance Dept. Govt. of Bihar Patna

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Satyam Shivam Sundaram

For the Opposite Party/s : Mr. Ramakant Sharma (L.O.,Inc.Vigi.)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

13 20-07-2018 Heard Mr. P.K. Shahi, learned senior counsel for the petitioner and Mr. Ajay Mishra, learned counsel appearing on behalf of the State (S.I.T.).

The petitioner seeks bail in Special Case No.11 of 2017, arising out of Agamkuan P.S. Case No.44 of 2017 registered under Sections 419, 420, 467, 468, 471 and 34 of the Indian Penal Code. Later on Section 66(d) of the Information Technology Act and Sections 7/8/9/13(1)(a)(b)(e) read with section 13(2) of the Prevention of Corruption Act, 1988 were added.

The informant received information on 03.02.2017 at 10.00 in the night that Pawan Kumar and Atul Ranjan Sinha were involved in pilferage of question papers and answer sheets of the



examination being held by Bihar Staff Selection Commission for appointment of different posts in the offices of different departments of the Govt. of Bihar. On such, a raid was conducted. Pawan Kumar, Bipin Kumar and Navneet Kumar were found inside the room and they were arrested. They disclosed that they are involved in the racket of leakage question papers and model answers and transmitting the same to the examinees after realizing money from them. Many electronic devises were recovered.

Mr. P.K. Shahi, learned senior counsel for the petitioner submits at the outset that the petitioner is not named in the F.I.R but prayer for bail of the petitioner was earlier rejected vide order dated 03.07.2017 passed in Cr. Misc. No.20500/2017 along with the prayer for bail of Vinit Kumar, the proprietor of Confisec Printing Press Private Limited. The petitioner is also an employee of the printing press. There is absolutely no material against the petitioner that question papers was ever leaked from the end of the petitioner or from the printing press, where the same was being printed. The Investigating Officer during course of investigation found the petitioner in constant touch with Amanpreet Singh Barar, the persons who were printing OMR. It is quite natural that after printing the questions, the printing press obtained OMR sheets from the printer of OMR and printing press sent the



question along with OMR to respective designated officer of the district, where the examination centres are fixed. The second allegation is that the petitioner took manuscript of question papers and handed over the same to the wife of Vinit Kumar, the proprietor of printing press. The wife of Vinit Kumar happens to be the Director of the company. The mobile of the petitioner was also seized and sent to Forensic Science Laboratory but no incriminating material was found. The petitioner was not found messaging any manuscript question or the question papers after its printing through any electronic device/devices. The present Chairman of the BSSC has stated in his statement before the Investigating Officer about procedure for setting the question papers and getting the same printed. It would appear from answers of the present Secretary of BSSC that Chairman of B.S.S.C. is solely responsible for getting the manuscripts of question from setters and for sending it to the printing press and after publication of question papers, the printing press sent the question papers with OMR to the authorized government officials duly authorized for that and there was no leakage of printed question papers before schedule of the examination. During the course of investigation, it was found that the question papers were photographed before commencement of examination at AVN School, Rajeev Nagar and



questions papers were transmitted through whatsapp messages. Another source of leakage of manuscript of question papers and model answer sheets of the question papers are said to have been recovered from the parental house of the then Chairman of B.S.S.C. and the relative of the then Chairman for their illegal gain, transmitted the manuscript of model answer sheets to different candidates after fetching money from the candidates. The brother and other relatives of the then Chairman were apprehended in this case and they disclosed the entire story of leakage of question papers and model answer sheets before the commencement of examination. It is submitted that it has nowhere been found that the petitioner being employee of printing press got the question paper leaked. The petitioner is in jail for more than a year. The petitioner deserves bail.

Mr. Ajay Mishra, learned counsel for the State (S.I.T.) submits that at the first instance, after having received information of leakage of question papers and answer sheets, the police arrested Bipin Kumar, Pawan Kumar and Navneet Kumar from the house of Pappu Singh and they disclosed the entire manner of getting the question papers and answer sheets from different sources including the staff namely Secretary, Data Entry Operators, I.T. Manager of B.S.S.C. and the way of transmitting to



the candidates who had paid money to them. The certificates of many candidates were also recovered from the same house. It is further submitted that all the members of the gang involved in leaking the question papers and the officers responsible were in regular touch with each other, which transpired from the examination of their mobile, sim card by F.S.L. The Chairman of B.S.S.C. himself is said to have left the question papers and the answer sheets at his parental house from where his nephew and brother got and circulated the same to many candidates. It transpired during the course of investigation that Proprietor and Ajay Kumar @ Ajay Kashyap, the petitioner, employee of printing press were also involved. The then Chairman of B.S.S.C. was liable to maintain the secrecy of question papers and model answer sheets. He was the only custodian of the model answer sheets and that is opened only after completion of examination but it transpired that the then Chairman handed over envelope of question papers to the petitioner in a very casual manner and the petitioner handed over the same to the wife of the proprietor of the printing press. During the course of investigation, it transpired that many members of the gang were in regular touch with the staff such as Data Entry Operators, I.T. Manger, Secretary of B.S.S.C., who used to get question papers and answer sheets although the



staff of the B.S.S.C. are not supposed to know about the question paper and model answer sheets but they helped the other members of the gang to get it. The other source of pilferage of question papers was the centre such as AVN School, where examination was being held. The Principal of A.V.N. School along with others were found to have photographed the question papers much before the commencement of examination after illegally opened the sealed cover in presence of authorized officials and transmitted the question papers to other members of the gang. It has also come that the question papers of the examination scheduled to be held on 05.02.2017 was circulated on whatsapp messages on 29.01.2017 and it is submitted that this cannot happen without the help of printing press and the person involved in printing the question papers. During course of investigation, it has come that after printing the question papers, the question papers were sent one week before the schedule examination to different centres but the leakage of question papers through whatsapp from 2/3 days before the schedule of examination was also found. It is further submitted that prayer for bail of the petitioner was earlier rejected and on similar facts, prayer for bail of Vinit Kumar, the Proprietor of Confisec Pvt. Ltd was permitted to be withdrawn by Apex Court. Thereafter Vinit Kumar again moved for grant of bail in



this court and this court rejected the prayer for bail once again and directed the trial court to conclude the trial within six months and therefore the petitioner also does not deserve bail. The case of the petitioner stands on same footing as that of Vinit Kumar.

Perused the record and the case diary. The police on secret information found that Pawan Kumar and Atul Ranjan Sinha were indulged in circulating the question papers and answer sheets of the examination held by B.S.S.C. to different candidates who had paid heavy amount for their appointment on different posts, raided the place and apprehended Pawan Kumar, Vinit Kumar and Navneet Kumar from the room itself and different electronic devices, question papers, admit cards of many candidates were recovered. The apprehended accused disclosed the name of many persons who were involved in the scam of leaking question papers of competitive examination held by B.S.S.C. for appointment of different posts in different department of the government of Bihar. On such disclosure, many persons were apprehended and on their disclosure, it transpires that the Chairman, Secretary, I.T. Manager, Data Entry Operators and many others including the petitioner were found involved in leaking of question papers of the competitive examination. They were found in regular touch with each other. The first source of



the leakage was Chairman, who left the manuscript question papers and model answer sheets at the residence of his father, from there relations of the Chairman got it, they circulated the same to different persons after getting money. The second source was the AVN School, the Centre of examination. The Principal, Director and other teachers and staff of AVN school were found involved in getting photographed of the question papers much before the commencement of the examination and they circulated the same to different persons and the members of the gang for onward transmission to the candidates and accordingly the answer sheets of the questions were also transmitted through whatsapp and other electronic devices to the candidates who had paid huge amount to the scamesters. It also transpires that the printed question papers were sent through whatsapp messages to different persons 3 or 4 days before the commencement of the examination. The printed question papers of the examination scheduled to be held on 05.02.2017 was circulated on whatsapp on 29.01.2017. The petitioner and owner of printing press disclosed that they sent the sealed cover question papers to different authorized agent of the government one week before the commencement of the examination so that the question papers may be received before the time and there is material to show that the printed question



papers were leaked about four days before commencement of examination and this could not have happened without the help of printers. It was the petitioner who carried the manuscript of question papers from the Chairman of B.S.S.C. for printing in press. It transpired that printed question papers also got viral on whatsapp much before the commencement of examination. Prayer for bail of other accused persons have already been rejected with direction to the trial court to conclude the trial holding the same on day to day basis. The case relates to the exam scam in which entire procedure of examination for appointment on different post has been hijacked by the unscrupulous persons.

Having considered the facts and the facts that prayer for bail of Vinit Kumar whose case stands on same footing has already been rejected by this court with a direction to conclude the same within six months, I am not inclined to enlarge the petitioner on bail. Accordingly the same stands rejected with direction to the trial court to conclude the trial within the prescribed time.

(Prabhat Kumar Jha, J)

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