

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

(1)

**Crl. Misc. No.M-43034 of 2016 (O&M)
Date of Decision: May 21, 2018**

Naveen Kumar

.....PETITIONER(s).

VERSUS

U.T., Chandigarh

....RESPONDENT(s).

(2)

Crl. Misc. No.M-379 of 2017 (O&M)

Ashok Kumar

.....PETITIONER(s).

VERSUS

U.T. Chandigarh

....RESPONDENT(s).

(3)

Crl. Misc. No.M-46799 of 2016 (O&M)

Surinder Singh

.....PETITIONER(s).

VERSUS

U.T. Chandigarh

....RESPONDENT(s).

(4)

Crl. Misc. No.M-6195 of 2017 (O&M)

Ajay Kumar

.....PETITIONER(s).

VERSUS

U.T. Chandigarh

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sajjan Singh, Advocate
for the petitioner in CRM-M-43034-2016.

Mr. Navneet Singh, Advocate
for the petitioner in CRM-M-379-2017.

Mr. Perdhuman Yadav, Advocate
for the petitioner in CRM-M-46799-2016.

Mr. Robin Singh, Advocate
for the petitioner in CRM-M-6195-2017.

Mr. J.S. Toor, APP for UT Chandigarh with
Ms. Raminder Gill, Advocate.

SURINDER GUPTA, J.(Oral)

All the aforementioned petitions have been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioners in case FIR No.128 dated 29.07.2016 registered for the offences punishable under Sections 409, 420 read with Section 120-B of Indian Penal Code, 8, 9, 13(1)(d) read with Section 13(2) Prevention of Corruption Act, 1988, at Police Station Sector-11, Chandigarh.

Heard.

Instant FIR was registered on the complaint of Director, Punjab Vigilance, Sector-17, Chandigarh regarding leakage of question paper for the exam held for recruitment of JBT/TGT teachers, which were conducted by Chandigarh Administration in the month of January and February, 2015.

As per allegations of the prosecution, these papers were released 2/3 days prior to conduct the exam. Master mind of this scam was Mithlesh Pandey @ Guruji @ Masterji and Dinesh Kumar Yadav was one of the conduits. Papers were provided to the prospective candidates at

Lucknow (UP). Dinesh Kumar Yadav under the instructions of Mithlesh Pandey had contacted Bijender Nain, non-applicant to contact aspiring candidates for the job of JBT and TGT for supply of question paper for ₹7 lakhs per candidate. Said Bijender Nain contacted Satish and Baniya, who were running coaching centre in Sonipat, Haryana and they arranged about 24/25 candidates for JBT/TGT posts and to get the question paper.

Bijender Nain arranged a private transport for all the candidates from Sonipat to Lucknow where the aspiring candidates were made to stay in a hotel named Manglam near Airport, Lucknow. The original certificates of candidates were taken by Dinesh Kumar Yadav and handed over to Mithlesh Pandey. All the candidates were provided leaked question paper. It was also revealed that when Dinesh Kumar Yadav visited Sonipat to collect money of the leaked question paper from Bijender Nain, he was badly beaten and admitted in hospital. Name of one sub Inspector Ajay Dhankar also surfaced during investigation for receiving ₹10 lakhs to arrange settlement between them. Payment of ₹70 lakhs was made to Mithlesh Pandey in Lucknow by Satender Hooda. The allegation against the petitioners, which have surfaced during investigation, are as follows:-

Naveen Kumar:-

“That the co-accused Bijender Nain in his disclosure statement stated that petitioner had availed the leaked JBT Paper at Lucknow alongwith other candidates with the connivance of Bijender Nain and paid Rs.7 Lacs to Bijender. Accused Sampuran Singh also disclosed the name of petitioner that he had also played an active role as agent also and had arranged two candidates of JBT. It was further disclosed that petitioner alongwith Sampuran

Singh and other persons namely Satinder Hooda, Ravinder Baniya, Satish etc. went to Lucknow where they paid over Rs. 70 Lacs to Dinesh Yadav collected from the beneficiaries of JBT and TGT. He is one of the beneficiaries and admitted in his own handwriting in this regard.”

Ashok Kumar:-

“That the co-accused Bijender Nain in his disclosure statement stated that petitioner/Ashok Kumar arranged one candidate of JBT namely Annu Lakria and he was amongst the other co-accused while handing over an amount of Rs.70 Lacs to accused Dinesh Yadav and Mithilesh Pandey @ Guru Ji at Lucknow collected from the JBT candidates/beneficiaries. He is agent and kept 1.5 Lacs as his commission from Rs.8.5 Lacs and remaining 7 Lacs had been given to kingpin Bijender Nain.”

Surender Singh:-

“That the co-accused Bijender Nain in his disclosure statement stated that petitioner/Surinder Singh arranged three candidates of JBT and he was amongst the other co-accused while handing over an amount of Rs.70 Lacs to accused Dinesh Yadav and Mithilesh Pandey @ Guru Ji at Lucknow collected from the JBT candidates/beneficiaries. He had kept Rs.3 Lacs as his commission from Rs.24 Lacs and remaining 21 Lacs had been given to kingpin Bijender Nain.”

Ajay Kumar:-

“That the co-accused Bijender Nain in his disclosure statement stated that petitioner/Ajay Kumar arranged 11 candidates of JBT namely Sonika, Monika, Sandeep Kumar, Babita, Kunal Gehlot, Jyoti, Sushil Rana, Raj

Kumar Rana, Devinder Kumar, Manju Bala and Kavita. He had taken 8 Lacs from each candidates and arranged the bus for transportation of the 25 candidates from Sonapat to Lucknow. He is agent and kept Rs.11 Lacs as his commission from Rs.88 Lacs collected from the candidates and remaining Rs.77 Lacs were given to Bijender Nain.”

Learned State counsel has argued that though the petitioners have joined the investigation but the police has yet to inquire from them about the number of persons involved in this racket, payments made by them and the aspirants for JBT/TGT, who have taken their assistance to get the paper in advance. For this custodial interrogation of the petitioners is required.

Learned counsel for the petitioner(s) have argued that allegation against the petitioner are based on disclosure statement of co-accused. They have joined the investigation. As per the police, Mithlesh Pandey was the Master-mind but he was deliberately allowed to get the benefit of bail as the police did not file challan against him within a period of 90 days after his arrest. Other co-accused are on bail. As per the FIR, main accused are Dinesh Kumar Yadav, Bijender Nain, Ravinder Bania and Satish. Petitioners have been arrayed as agents. They have provided all the information required by the police and have given their and their family members' bank account numbers to the police. Custodial interrogation of the petitioners is no more required as they were given written questionnaire which have been replied by them.

Admittedly, Mithlesh Pandey, the alleged Mastermind is on bail. The allegations against the petitioners are based on disclosure

statements of co-accused and it is for the investigating agency to verify the veracity of the same. The petitioners were given questionnaire in writing which they have replied.

Keeping in view the above facts but without expressing any opinion on the merits of the case, all the petitions captioned above are allowed. Order dated 01.12.2016 passed in CRM-M-43034-2016; 12.01.2017 passed in CRM-M-379 of 2017; 30.12.2016 passed in CRM-M-46799-2016; and 15.05.2017 passed in CRM-M-6195-2017 are made absolute till the presentation of challan, subject to the following terms:-

- (i) that the petitioners shall make themselves available for interrogation by the police as and when required;
- (ii) that the petitioners shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the petitioners shall not leave India without the prior permission of the Court;
- (iv) that the petitioners will seek regular bail on the presentation of challan in Court.

May 21, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***