

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRM-M-3252-2019
Reserved on: 25.01.2019
Pronounced on: 29.01.2019

Lalit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. J. S. Mehndiratta, Advocate
for the petitioner.

Mr. Arun Kumar, AAG, Haryana.

ARVIND SINGH SANGWAN, J.

The petitioner prays for grant of anticipatory bail in FIR No. 451 dated 18.12.2018, under Sections 467, 468 and 471 of the IPC, registered at Police Station Civil Lines, Jind, District Jind.

Brief facts of the case are that petitioner applied for appointment to the post of Clerk in the office of District & Sessions Judge, Jind and was issued appointment letter on 03.12.2014. In compliance with the letter of the High Court, the testimonials of the petitioner were sent to Assistant/Deputy Registrar (Examination), Kurukshetra University, Kurukshetra on 17.01.2015 for verification of his qualification. Thereafter, reminders were given and on 17.10.2016, it was informed by the University that the result of the petitioner was not in order and the original documents were demanded, which were sent for verification. On 20.04.2017, it was informed by the University that the result of the petitioner was not in order and an inquiry is being conducted in this regard. Thereafter, on 20.09.2017, University informed that the result of the petitioner has been found to be tampered with by a Committee constituted

to confirm whether Detailed Marks Card (DMC)/Degree in respect of the petitioner is genuine or not. The details of the inquiry, on the basis of which the said opinion was formed by the University, are reproduced in the FIR.

Thereafter, the petitioner was served with a show cause notice as to why his services be not terminated and on receiving the reply and affording opportunity of hearing to the petitioner, his services were terminated, vide order dated 16/17.10.2017, passed by the District & Sessions Judge, Jind. Thereafter, the petitioner preferred a service appeal, i.e. Service Appeal No. 6 of 2018, and the then Administrative Judge of Jind Sessions Division, while setting aside the aforesaid termination order, held that a regular inquiry be conducted and it was observed that if the DMC/Degree is found to be fabricated, the District & Sessions Judge, Jind may order necessary criminal prosecution in accordance with law.

The District & Sessions Judge, Jind entrusted the regular inquiry to Additional Sessions Judge and after affording due opportunity to the petitioner, the Inquiry Officer concluded the inquiry with the following remarks:

“In these circumstances, I am of the firm view that department has fully established the charge levelled against the delinquent Sh. Lalit Kumar by leading cogent and convincing evidence, as the statement of the material witnesses clubbed with documents proved them on record has duly supported its claim. Therefore, in my view, Sh. Lalit Kumar, now working as Deputy Record Keeper, Record Room, Subordinate Court, Jind is guilty of having obtained appointment as Clerk in a fraudulent manner and is responsible of alleged misconduct.”

In the inquiry, it was found that the petitioner failed in two subjects, i.e. English and Mathematics, and when he applied for re-evaluation, vide receipt dated 18.08.2011, he was declared 'passed', however, an official

of the University was examined by the petitioner in his defence, who admitted in the cross-examination that it is not clear whether while applying for re-evaluation, the petitioner has deposited the original marksheet, showing him to have passed the aforesaid two subjects, or not and the receipt also does not reflect the name of the petitioner. It was also observed that during the inquiry, a copy of the said DMC was withheld by the Inquiry Officer, therefore, the opinion given by the University that the University record is tampered regarding the DMC/Degree of the petitioner was found to be substantiated by the Inquiry Officer. On the basis of the inquiry conducted by the Additional Sessions Judge-cum-Inquiry Officer, the present FIR was registered.

Learned counsel for the petitioner has submitted that the inquiry, conducted by the Inquiry Officer, is not based on correct facts and the defence of the petitioner has not been properly appreciated.

It is further argued that the said inquiry is yet to attain finality as subsequent thereto, the petitioner has again been terminated and a service appeal is pending before this Court against the termination order.

Learned counsel for the petitioner further submitted that there is no *mens rea* on the part of the petitioner to cheat the department when he applied for the post and was issued appointment letter as he has submitted DMC which was issued to him after re-evaluation was done.

Learned State counsel has opposed the grant of anticipatory bail to the petitioner on the ground that there are serious allegations of fabricating the educational documents against him.

After hearing learned counsel for the parties, I find no ground to grant anticipatory bail to the petitioner.

Admittedly, the petitioner has faced full length inquiry in which, it was found that the DMC of the petitioner pertaining to B.A. Part-III examination was found to be tampered with and despite the fact that petitioner had failed in two subjects, i.e. English and Mathematics, he has managed a DMC/Degree of the passed marks.

It is also not disputed that during inquiry, the petitioner was afforded proper opportunity of hearing and he was even permitted to lead the defence evidence and the Inquiry Officer has even relied upon the statement of DW-2, an official of the University, who has admitted in cross-examination that it is not clear that the original DMC, showing the petitioner to be failing in two subjects, was attached at the time of re-evaluation or not and the re-evaluation slip, issued by the University, also does not reflect the name of the petitioner. Mere fact that a service appeal, filed by the petitioner, is pending, is no ground to grant anticipatory bail to petitioner who has procured the employment in the office of District & Sessions Judge, Jind by producing fake DMC/Degree.

Therefore, considering the serious allegations against the petitioner, no ground is made out for grant of anticipatory bail.

Dismissed.

January 29, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No