

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58391 of 2019

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

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Arun Kumar, an adult male, aged about 42 years, Son of late Jagdeo Ram, Resident of LIG 16/563C, Hanuman Nagar, Patna, P.S. Patrakar Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Vigilance Department, Government of Bihar, Patna.

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 71045 of 2019

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

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Shri Awdhesh Kumar @ Awadhesh Kumar, an adult male, aged about 51 years, Son of Shri Radha Prasad, Resident of South Gandhi Nagar, P.S. Sadar, District Hazaribagh (Jharkhand) at presently residing at Professors Quarter No.13, Saidpur, P.S. Bahadurpur, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The State of Bihar through Vigilance, Patna.

... .. Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 79384 of 2019

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

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Manju Kumari, aged about 37 years, Female, Wife of Awadhesh Kumar, Village Kapurdihra, P.S. Tarari, District Bhojpur, at present resident of Professor Quarter No.13, Saidpur Campus (Patna University), P.S. Bahadurpur, District Patna.

... .. Petitioner/s

Versus

The State of Bihar through the Principal Secretary, Department of Cabinet (Vigilance Investigation Bureau), Government of Bihar, Patna.

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 58391 of 2019)

For the Petitioner : Mr. Jitendra Singh, Senior Advocate



For the SIT : Mr. Ajay Mishra, APP
(In CRIMINAL MISCELLANEOUS No. 71045 of 2019)
For the Petitioner : Mr. Jitendra Singh, Senior Advocate
For the SIT : Mr. Ajay Mishra, APP
(In CRIMINAL MISCELLANEOUS No. 79384 of 2019)
For the Petitioner : Mr. Jitendra Singh, Senior Advocate
For the SIT : Mr. Ajay Mishra, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 22-06-2020 Heard Mr. Jitendra Singh, the learned Senior Counsel

for the petitioners, Mr. Ajay Mishra, the learned Additional P.P.

for the SIT and the learned counsel appearing on behalf of the

Vigilance through video conferencing.

The petitioners seek 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, 120B and 34 of the Indian Penal Code, under Section 66D of the Information Technology Act as well as under Sections 7, 8, 9, 13(1) (c) (d) (e) read with Section 13(2) of the Prevention of Corruption Act.

The prosecution case, in short, as alleged by Dharendra Kumar Singh, ASI of Agamkuan P.S., in his written report is that in the night of 03.02.2017, the informant got information that in the first floor of the house of Dina Nath Singh situated in Mohalla Kanti Factory Road, Mahatma Gandhi Nagar, Pawan Kumar and Atul Ranjan Sinha were involved in a racket/scam for getting meritless candidates passed through in the competitive examination to be held by



Bihar Staff Selection Commission (for brevity 'BSSC') for recruitment in different Muffasil offices, Government of Bihar by getting question and answer sheets and making them available to such candidates who had already paid hefty amount to Pawan Kumar, Atul Ranjan Sinha and their partners. On such information, a raid was conducted. Three persons, namely, Pawan Kumar, Bipin Kumar and Navnit Kumar were apprehended and they disclosed the names of Atul Ranjan Sinha, Gorelal @ Kaushik and Bhola @ Nitesh who were their partners in the scam for getting such candidates selected in the competitive examination. On search, electronic devices, such as bluetooth, mobile phones, laptop, printer, ATM cards and cash were recovered. They disclosed that they used to get the answer sheets prior to commencement of the competitive examination and transmit the same to the candidates who had paid to them Rs.6,00,000/- through electronic gazettes before commencement of the examination.

Mr. Jitendra Singh, the learned Senior Counsel for the petitioners submits that the prayer for bail of the petitioner, Arun Kumar was earlier rejected vide order dated 06.12.2017, passed in Cr. Misc. No.25151 of 2017. The prayer for bail of Manju Kumari, petitioner of Cr. Misc. No.79384 of 2019, was twice



rejected by this Court vide order dated 06.12.2017 and 04.09.2019, passed in Cr. Misc. No.22807 of 2017 and Cr. Misc. No.19801 of 2019 respectively. The prayer for bail of Shri Awdhesh Kumar @ Awadhesh Kumar, petitioner of Cr. Misc. No.71045 of 2019, was earlier rejected by this Court vide order dated 06.12.2017, passed in Cr. Misc. No.24035 of 2017. The petitioners have not moved before the Hon'ble Supreme Court. It is further submitted that the petitioners are not named in the FIR. Petitioner Arun Kumar is the nephew of the Chairman of the Bihar Staff Selection Commission (in short 'the BSSC') and Awdhesh Kumar, the petitioner of Cr. Misc. No.71045 of 2019. The name of the petitioners surfaced in the confessional statement of other accused persons who had access of question papers of the competitive examination held by the BSSC but the statement of the co-accused persons remained uncorroborated. Ashish Kumar, the brother of the petitioner, Arun Kumar is said to have confessed and disclosed the name of the petitioners. There is no allegation that the petitioners impersonated anyone and, therefore, no offence under Section 419 of the Indian Penal Code is made out. The petitioners did not make any false representation nor forged any document. No forged document has been collected from possession of the petitioners thus, no



offence under Sections 467, 468 and 471 of the Indian Penal Code for cheating, forgery and gratification is made out. The petitioners are not government servants. The petitioners are in custody for more than three years and similarly situated co-accused persons, namely, Kaushal Singh @ Kaushal Kishore was granted bail vide order dated 22.11.2019, passed in Cr. Misc. No.70260 of 2019. Anand Sharma was granted bail on 01.10.2019 vide order passed in Cr. Misc. No.51573 of 2019. Co-accused Guddu Kumar and Anantpreet Singh Brar were granted bail vide order passed in Cr. Misc. No.47740 of 2019 and Cr. Misc. No.30399 of 2019 on 13.08.2019 and 17.08.2019 respectively. Ajay Kumar @ Ajay Kashyap, who was the Manager of the printing press, was granted bail vide order dated 10.07.2019, passed in Cr. Misc. No.72651 of 2018. Kaushlendra Kumar @ Kaushik @ Gorelal was granted bail vide order dated 17.01.2020, passed in Cr. Misc. No.55077 of 2019. The case of the petitioners stands almost on the same footing. It is further submitted that the allegation against the petitioner, Arun Kumar is that Arun Kumar, his brother, Ashish Kumar and one Hari Om went to Hazaribagh to collect question papers and answer sheets from the parental house of Shri Sudhir Kumar. The petitioner, Arun Kumar was to appear at the same examination and out of



150 answers, approximately 98 answers of the petitioners tallied with the viral OMR answer sheets which reflects from the FSL report. The allegation against Awadhesh Kumar and Manju Kumari, who are husband and wife and own brother and sister-in-law of Sudhir Kumar, is that they got information from Shri Sudhir Kumar, the Chairman of BSSC requesting the petitioners to ask Ashish Kumar and Arun Kumar to collect question papers and answer sheets of the examination from the parental house of the petitioner, Awadhesh Kumar and Sudhir Kumar. Arun Kumar, Ashish Kumar and Hari Om, who were also examinees, are said to have gone to Hazaribagh to collect the question papers and answer sheets but there is no allegation against the petitioners, Awadhesh Kumar and Manju Kumari that they made the question papers and answer sheets viral to any other examinees with an object to collect money. Mr. Jitendra Singh, the learned Senior Counsel further submits that Arun Kumar is an examinee and only 98 questions are said to have tallied with the total questions and, therefore, it cannot be said that the petitioners obtained the entire answer sheets of the question papers. There is no allegation that he made the answer sheets viral. The petitioners are in jail for more than three years. There is no chance of conclusion of trial in the near future as charges



have not yet been framed. Although chargesheet was submitted in the month of May, 2017, but the case is pending for last about three years for framing of charge. Even the petition for discharge of some of the accused persons have not been disposed of. It is the legitimate right of the accused persons to file petition for discharge and the court is obliged under law to dispose of such petition, therefore, it cannot be said that the petitioners have adopted any method to linger the trial. It is also submitted that there is no allegation against Arun Kumar that he transmitted the question papers to any other. His brother Ashish Kumar transmitted the question papers and answer sheets to others such as, Ranjan, Rameshwar and Sajjad. Even according to the confessional statement of the petitioners, the petitioners are not the persons who made the question papers and answer sheets available to any other person hence, the petitioners may be enlarged on bail.

Mr. Ajay Mishra, the learned Additional P.P. for the SIT and the learned counsel for the Vigilance opposed the prayer for bail and submitted that Arun Kumar is the nephew of Sudhir Kumar and Awadhesh Kumar, the petitioner of Cr. Misc. No.71045 of 2019 and Manju Kumari is the wife of Awadhesh Kumar. They have stated before the police that after having



received the information from Shri Sudhir Kumar, they asked Arun Kumar, Ashish Kumar and Hari Om, who also happens to be their relative, to collect the answer sheets from the residence of father of Sudhir Kumar and Awadhesh Kumar. Manju Kumari further requested them to make a copy of the question paper and answer sheets available to her relatives such as Ranjan residing in Ara town. It has further come that Arun Kumar and Ashish Kumar after having received the question paper and answer sheets made the same available to Ranjan and Rameshwar who runs a coaching institute. Rameshwar got the answer sheets copied by his sister Radha Kumari who was also an examinee and thereafter Rameshwar made the answer sheets viral to the candidates studying in his coaching institute after realizing huge amount from them, therefore, the case of Arun Kumar and Ashish are not similar to that of Awadhesh Kumar and Manju Kumari. It is further submitted that the petitioner, Arun Kumar not only obtained the answer sheets for himself but also transmitted the answer sheets to Rameshwar and others with object to get money, hence, the petitioners do not deserve bail.

Perused the records. It is apparent from the facts that firstly on the basis of secret information, a raid was conducted in the house of Dina Nath Singh situated in Mohalla Kanti



Factory Road, Mahatma Gandhi Nagar and three persons were apprehended. From their room huge quantity of electronic gazettes such as, bluetooth, ATM cards, Admit Cards of the examinees, original certificates of the examinees and cash were recovered. The petitioners are of course not named in the FIR but during the course of investigation, the names of the petitioners surfaced in the case. It transpired from perusal of the case diary and the reports of the FSL that the Chairman of BSSC was solely responsible for keeping the question papers and answer sheets secret but he was the first source of leakage of question papers. It also transpired from the facts and materials collected during the course of investigation that the Secretary, Data Entry Operator, I.T. Manager and many other staff of BSSC had access to the question paper and answer sheets and they made available the question papers and answer sheets to Bipin Kumar, Pawan Kumar, Navnit Kumar and many other such persons. The Chairman of the Commission failed to keep the question papers and answer sheets secret and on account of his fault, the staff of the Commission also breached the secrecy and got the access in the question papers and answer sheets who in turn transmitted to different persons and members of the gang who indulged in transmitting the question papers and answer



sheets to different examinees after realizing Rs.6,00,000/- from them. It appears that the original certificates of many candidates were recovered from the room of the apprehended accused. The Chairman of the Commission made available the question papers and answer sheets to his relative such as Arun Kumar and Ashish Kumar and asked his brother, Awadhesh Kumar and his wife, Manju Kumari to inform Ashish Kumar, Arun Kumar and other relatives to obtain the question papers and answer sheets. In pursuance thereof, Awadhesh Kumar and Manju Kumari instructed them to obtain the question papers and answer sheets and make the same available to others. Thereafter Ashish Kumar appears to have made available the question papers and answer sheets to Sajjad, Ranjan and Rameshwar, who was proprietor of a coaching institute. Rameshwar after obtaining the question papers and answer sheets from Ashish Kumar made the same viral to such examinees of his choice who were taking coaching in his coaching institute, therefore, it appears that Arun Kumar only accompanied his brother Ashish and Hari Om to Hazaribagh but he did not hand over the question paper and answer sheet to any body. The confessional statement of Arun Kumar also does not show that he made the answer sheet available to any person. He did not transmit the



answer sheet to any person for his gain although he had knowledge. There is no allegation against Awadhesh Kumar and Manju Kumari that they made the question papers viral for getting money. They were only anxious to get their relatives appointed by getting the question papers and answer sheets.

Having considered the facts aforesaid, let petitioners, namely, Arun Kumar, Shri Awdhesh Kumar @ Awadhesh Kumar and Manju Kumari be enlarged on bail on furnishing bail bond of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Court of Special Judge, Vigilance, 1st, Patna in connection with Special Case No.11 of 2017, arising out of Agamkuan P.S. Case No.44 of 2017.

(Prabhat Kumar Jha, J)

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