IN THE HIGH COURT OF HIMACHAL PRADESH

Cr.MP(M) No. 762 of 2020

Date of Decision: 19.06.2020

Raj Kumar Rana ...Petitioner.

Versus

State of Himachal Pradesh ...Respondent.

Coram:
The Hon'ble Mr. Justice Anoop Chitkara, Judge.

Whether approved for reporting?[1] ***No****.*

For the petitioner: Mr. N.S. Chandel, Senior Advocate with Mr. Rajesh Verma and Mr. Vinod Kumar Gupta, Advocates.

For the respondent: Mr. Ashok Sharma, Advocate General with Mr. Nand Lal Thakur, Additional Advocate General, Mr. Ram Lal Thakur, Assistant Advocate General and Mr. Rajat Chauhan, Law Officer, for the respondent/State.

Anoop Chitkara, Judge.

The petitioner is a Chancellor of Manav Bharti University, which is a private university constituted under Manav Bharti University (Establishment and Regulation) Act, 2009, passed by H.P. Legislative Assembly. This University was formed by Manav Bharti Charitable Trust, of which the Petitioner is a Chairman-cum-Trustee. Due to allegations of selling fake degrees by the University, the petitioner is apprehending his imminent arrest on being arraigned as accused, in FIR number 26 of 2020, dated 7.3.2020, registered under Sections 420, 468, 471, and 120B of Indian Penal Code, 1860, in the Police Station Dharampur, District Solan, HP, disclosing non-bailable offences, came up before this Court under section 438 CrPC, seeking anticipatory bail.

2. The status report filed. I have heard Counsel for the parties and seen the status report(s) as well as the police file to the extent it was necessary for

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[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

deciding the present petition. The police file returned through the Counsel appearing for the State.

3. The counsel for the petitioner states that the accused had joined the investigation as and when the Investigating Officer so directed. Learned Additional Advocate General did not dispute this averment.

FACTS

4. The gist of the First Information Report and the investigation is that the Police party headed by Dy. Superintendent of Police was investigating the FIR No.22/2020, registered against the present bail petitioner himself in the same Police Station. In pursuance to FIR, they were searching the premises of Manav Bharti University at Lado Sultanpur, District Solan, HP. While searching the 3rd floor of the central storeroom, the Police noticed students' registration record and solved answer sheets. The Police also found admission forms of two persons. One such person had submitted the application form for the academic sessions 2015-2018 and was allotted a roll number. Against such a roll number, the University had issued him specific numbered answer sheets. However, some of those answer sheets were having same roll number but were unchecked. In contrast, the said student was awarded a degree on 15.10.2018, and a provisional certificate was also issued to him, which was sent to him by post. Similarly, answer sheets with another roll number assigned to another student remained unchecked, and a provisional certificate was also issued to him on 11.4.2018. When the Police flipped over some of the answer sheets, they noticed that some were marked and that that previous lower marks were cut out to grant higher marks for the same answer. It aroused suspicion in the Investigating Officer's mind that the entire system of checking the answer sheets and running the Institute is shady. Consequently, he sent a report to the Police Station, which led to the registration of the FIR mentioned above. During further investigation, the Police also recovered Hard Disk, Computer, Laptop, and stamps, etc.

PREVIOUS CRIMINAL HISTORY

5. Neither the bail petition nor the status report refers to any previous criminal history of the bail petitioner.

ANALYSIS AND REASONING:

6. This FIR is dated 7.3.2020, whereas the countrywide lockdown due to COVID-19 disease came into force on 24.3.2020. It means, the Police had around three weeks to investigate this matter. Subsequently, after lifting of the lockdown, the petitioner applied for an anticipatory bail in this Court, which granted interim protection to him on 2.6.2020, directing him to join the investigation. The learned Advocate General, on instructions from the Additional Superintendent of Police, as well as Dy. The Superintendent of Police, Solan, does not dispute the joining of the investigation by the petitioner. This case is based upon the material already recovered from the premises of the University and is on a very narrow compass.

7. Pre-trial incarceration needs to be justified depending upon the heinous nature of the offence, terms of the sentence prescribed in the Statute for such a crime, accused fleeing from justice, hampering the investigation, and doing away with witnesses. The Court is under the Constitutional obligation to safeguard the interests of the victim, the accused, the society, and the State.

8. In Gurbaksh Singh Sibbia and others v. State of Punjab, 1980 (2) SCC 565, a Constitutional Bench of Supreme Court holds in Para 30, as follows:

> "It is thus clear that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail."

9. Any detailed discussions about the evidence may prejudice the case of the prosecution or the accused. Suffice it to say that apart from the reasons mentioned above, the overall allegations, and also due to the following reasons, this Court believes that in this FIR, further incarceration of the accused during

the period of trial is neither warranted, nor justified, or going to achieve any significant purpose:

a) The investigation in this FIR is based upon the documents which are already seized by the Police;

b) The entire campus of the Manav Bharti University can be searched by the Investigator, in accordance with the law.

c) The Petitioner has joined investigation.

d) AADHAR number, Passport details, and other proofs of identity would further secure his presence during trial.

10. Given the above reasoning, the Court is granting bail to the petitioner.

11. This order of bail does not in any manner limit or restrict the rights or duties of the Police or Investigating Agency, to investigate into the charges against the petitioner.

12. The present bail order is only for the FIR mentioned above. It shall not be construed to be a blanket order of bail in all other cases, if any, registered against the petitioner.

13. Any observation made hereinabove is neither an expression of opinion on the merits of the case, nor shall the trial Court advert to these comments.

14. Consequently, the order dated 2 June 2020, is confirmed and the petition stands allowed in the terms mentioned above.

The Court Master/Secretary shall handover an authenticated copy of this order to the Counsel for the Petitioner, and to the Learned Advocate General, if they ask for the same.

(Anoop Chitkara)
Judge

19th June, 2020 (KS)