

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

CRM M-1501 of 2020 (O&M)

Date of Decision: July 28, 2020

(1) Amit GillPetitioner
Versus
Union Territory, Chandigarh Respondent

CRM M-15113 of 2020 (O&M)

(2) Mandeep SethiPetitioner
Versus
Union Territory, Chandigarh Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate
for the petitioner in CRM M-15113 of 2020.

Mr. Vivek Lamba, Advocate
for the petitioner in CRM M-1501 of 2020.

Dr. Sukant Gupta, APP, for U.T. Chandigarh.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

The above detailed two regular bail applications both under Section 439 Cr.P.C. one by Amit Gill and another by Mandeep Sethi having been moved in FIR No. 268 dated 07.10.2019 under Sections 419, 420, 120-B (Section 408 added later on) of IPC, registered at Police Station Industrial Area, Chandigarh and are being taken up together for disposal.

The brief facts are that a complaint was made against certain persons, who were committing cheating, fraud in conducting examinations for immigration/admissions for abroad including 'The Pearson Test of English-Academic' (PTE-A), which is aimed primarily for gradation/betterness in English language knowledge at international level for soliciting academic, admissions as well as jobs.

The test is of high stake. The basic procedure is online registration for PTE-A examination selection of time slot and test center and thereafter appearing at the test center at chosen time with prescribed identity/documents. The documents are scrutinized by the Test Administrator (TA)/Test Centre Manager (TCM). To ascertain the identity of the candidate palm

vein scan, photograph and signatures are obtained at the Admin desk before entering the examination hall and the documents including passport are scrutinized and, thereafter, the candidate is made to wait in the waiting area and after ensuring due personal search of the candidate for any objectionable item after second scan at the proctor desk, the candidate enters the examination hall under the supervision of Test Administrator. Tests comprise of audio, listening test as well as writing skill. In this region, M/s Pearson India Education Services Private Limited were given this job and which is very prestigious internationally in view of the assured career progression. Petitioner Mandeep Sethi was managing test as Test Administrator whereas Amit Gill petitioner happens to be the partner in this business. The allegations in brief against the petitioner are that they misused their position, confidence reposed in them by the authorities and got prepared fake Ids of candidates and upon monetary consideration from the candidates used to introduce at the waiting area proxy candidates to ensure success at the examination. Over a period of time, the racket attained international ramifications and the accused/petitioners managed to use their ID check card and introduced 24 fake proxies in the place of the actual candidates and in the process made undue monetary gains by committing

fraud with the authorities on the strength of fake documents.

Learned counsel for petitioners have fairly submitted that the petitioners are behind the bars around 7/8 months and co-accused have been allowed bail by this Court. It is argued that since challan has already been presented and due to COVID 19 Pandemic trial is not likely to proceed, they prayed for grant of bail.

Shri Sukant Gupta, learned APP for the U.T. Chandigarh has strongly opposed the prayer of the petitioners by submitting that both the petitioners are the very axis around which the entire scandal revolved. It is claimed that the persons who have been allowed bail were only acting as agents of the present petitioners and the petitioners have managed to amass huge money by way of such nefarious activities. It is prayed that the majority of the proxies are yet to be arrested and which can only be facilitated by the petitioners who have personal knowledge of that as well as their whereabouts and, therefore, sought dismissal of the petitions.

Going though the arguments of the two sides in detail, it is a matter of common knowledge that The Pearson Test of English (PTA-E) is a very prestigious test and is of international repute. The petitioners being the facilitators of these examinations at the local centre by their illegal acts,

machinations, deceptions and fraud based on fictitious documents, impersonation had ensured that more than two dozens of proxies are introduced in place of the actual candidates. Most of the accused are yet to be arrested with whom the petitioners have managed to carry on and give effect to this conspiracy and if the petitioners are released on bail at this juncture will put an end to further arrest of the remaining accused who are at large. More so, the accused/petitioners who have been allowed bail is on different footings and the present petitioners/accused being the main initiators and perpetrators of this crime, which has tarnished the very international image of the test as well as this country adversely affecting foreign admissions to prestigious courses/jobs impels this Court to take strong view against the petitioners. Thus, there being no merits in the present petitions, the same are dismissed.

July 28, 2020

amit rana

(FATEH DEEP SINGH)**JUDGE**

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No