

CRM-M-46485-2021 (O&M)

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

**CRM-M-46485-2021 (O&M).
Decided on: December 16, 2021.**

Satish Dhull

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Vinod Ghai, Senior Advocate, assisted by
 Ms.Kanika Ahuja, Advocate, and
 Mr.Edward Augustine George, Advocate
 for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

**Mr.Narender Singh, Advocate,
for the complainant.**

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in FIR No.316 dated 5.10.2021, under Sections 120-B, 420, 464, 468 and 474 IPC, registered at Police Station Mahesh Nagar, District Ambala.

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The aforesaid FIR came to be lodged on the basis of complaint made by one Jasbeer Singh, Secretary General, The Haryana State Taekwondo Association Ambala Cantt. against accused namely Sh. Devvart Arya son of Sh. Rishi Dev Arya, Hardik Dhull and Sh. Satish Dhull (petitioner) who alleged that it came to his knowledge that certificates of Haryana State Taekwondo Association, Ambala Cantt. (Regd.) have been forged by some people which has been checked on the website of Haryana Sports Department. The accused had procured merit certificates of 25th Haryana State Senior Men Taekwondo Championship 2013 held on 11th August, 2013 at Regional Training Centre, North Zone, 10B, New Tagore Garden, Ambala Cantt and 32nd National Senior Taekwondo Championships 2013 held from 20th to 22nd September 2013 at Imphal, Manipur. The allegations against the petitioner in the FIR are that the petitioner has forged two certificates one pertaining to 25th Haryana State Senior Men Taekwondo Championship wherein he has not won any medal in said categories and the Haryana State Taekwondo Association, Ambala Cantt. has not issued any certificate to him and the alleged certificate of merit is not genuine. Second certificate of 32nd National Senior Taekwondo Championship 2013 was also forged by the petitioner and the other two accused as they have not won any medal in said weight categories. It is further alleged that the accused including the petitioner in collusion with Computer Operators and other members of their gang had fabricated the certificates of merit and prepared these alleged certificates of merit to gain from the alleged certificates of merit and to put on loss the Haryana State

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Taekwondo Association, Ambala Cantt. On the basis of these two certificates, the petitioner and other two accused have cheated the Haryana Sports Department by applying for gradation of these forged merit certificates and getting C Grade gradation certificate by Haryana Sports Department and apart from the same, there are many certificates of State and National Championship which are being fabricated by many people and also obtained gradation certificates for job appointment.

Mr.Vinod Ghai, Learned Senior counsel assisted by Ms.Kanika Ahuja, Advocate and Mr.Edward Augustine George, Advocate, has submitted that the petitioner has been falsely implicated in the present case on account of following reasons:-

Firstly, as per Annexure P-5, which is the information provided under the Right to Information Act, the petitioner submitted an application form on 8.7.2019 and obtained gradation certificates. However, the petitioner was not present in India and had gone to Italy from 2.7.2019 to 16.7.2019 and therefore, on the date of alleged application by the petitioner, he was not even present in India. In support of the same, copy of passport of the petitioner has also been attached;

Secondly, there was a delay of about two years in lodging of the present FIR;

Thirdly, the present FIR was the result of enmity by the complainant namely Jasbeer Singh due to professional jealousy with petitioner;

Fourthly, the gradation certificates from the Haryana

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Sport Department which are alleged to have been taken by the petitioner in a fraudulent manner were never used by the petitioner at any place and therefore, it cannot be said that the petitioner had applied for these certificates and rather, it was a case where the petitioner was falsely implicated on the basis of a complaint made by the complainant out of vengeance. Learned senior counsel has submitted that while issuing notice of motion on 3.11.2021, this Court had granted stay of arrest of the petitioner and now the petitioner has joined the investigation and therefore, he may be considered for the grant of anticipatory bail.

On the other hand, the prayer of the petitioner has been vehemently opposed by the State. Mr.Naveen Singh Panwar, learned Deputy Advocate General, Haryana, has submitted that the State has filed a status report of the Deputy Superintendent of Police, Ambala Cantt., District Ambala dated 9.11.2021 and thereafter, two additional affidavits dated 25.11.2021 and 7.12.2021 have also been filed and apart from the same the Director, Department of Sports and Youth Affairs, Panchkula, Haryana, has also filed an affidavit.

While referring to the aforesaid affidavits filed by the State, learned State counsel has submitted that, in fact, the petitioner was a part of the racket which was being operated for the purpose of procurement of forged and fabricated certificates on the basis of which the State Government had issued gradation certificates and thus the same has deprived the rights of other persons who are aggrieved by the issuance of the gradation certificates by the State Government. He submitted that after

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forging the certificates of 25th Haryana State Senior Men Taekwondo Championship and 32nd National Senior Taekwondo Championship 2013, the petitioner had taken certificates from the Department of Sports, Haryana on the basis of said forged certificates and got issued the gradation certificates from the Government. He further submitted that these certificates purported to be issued by the Association were found to be forged certificates and on the basis of those certificates, the petitioner has obtained gradation certificates from the Sports Department. While further referring to the affidavit, learned State counsel has submitted that during investigation, the complainant produced a Pendrive containing audio and video recording i.e. the conversation between the complainant and the petitioner Satish Dhull and others, wherein the petitioner has specifically admitted that above said forged certificates have been obtained and prepared by making the payment of Rs. 50,000/- per certificate and he duly admitted that the certificates in question were forged but they pleaded that the FIR may not be pursued further and the Investigating Officer had taken into possession the Pendrive by preparing the recovery memo duly attested by the witnesses. Thereafter, the Investigating Officer tried to join the petitioner in the investigation but the petitioner did not join the investigation and had filed an application for anticipatory bail before the learned Additional Sessions Judge, Ambala, which was ultimately dismissed.

Learned State counsel while referring to affidavit filed by the State further submitted that the petitioner was earlier also found to be

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involved as a member of a gang who used to get the exam of MBBS entrance passed fraudulently by getting the question paper leaked and in this regard a case FIR No. 110 dated 04.05.2015 under Sections 420, 467, 468, 471, 120-B and 201 IPC, Police Station PGI, MS, Rohtak, has been registered against the petitioner and others and the petitioner was part of the racket which was being operated for the purpose of procurement of forged and fabricated certificates on the basis of which the State Government had issued gradation certificates. While referring to the additional affidavits/status reports dated 25.11.2021 and 7.12.2021 as well as the affidavit filed by the Director, Department of Sports and Youth Affairs, Panchkula, Haryana, dated 10.12.2021, the learned State counsel further submitted that so far as argument that the petitioner was absent from India from 2.7.2019 to 16.7.2019, is concerned, the same has been verified that the petitioner had actually gone to Italy. The learned State counsel further submitted that it was stated in the affidavit on the basis of information provided by the Director, Department of Sports and Youth Affairs, Haryana that submission of affidavit is mandatory for applicant to apply for sports gradation certificate. However, the position with regard to the same has been clarified by the Director, Department of Sports and Youth Affairs, Haryana, in its affidavit dated 10.12.2021 wherein it has been stated that earlier vide notification dated 30.11.1993 the filing of the affidavit along with application was mandatory and thereafter due to computerisation the applications seeking issuance of gradation certificate need not to be authenticated necessarily by filing any affidavit and the instructions dated

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30.11.1993 were superseded by Notification dated 25.05.2018 which was further amended vide notification dated 15.11.2018. However, as an abandon caution affidavits are normally obtained from the applicant for their satisfaction as a deterrent measure at the time of filling up the application form to rule out the probability of issuance of any false/fake sports gradation certificate. Learned State counsel further submitted that although the petitioner was not present in India on the date of the application and the issuance of the application which is of the same date i.e. 8.7.2019, but the matter would attain more seriousness as to how the petitioner has managed to get the certificate on 8.7.2019 when he was not even present in India even if affidavit for the same was not required. He further submitted that the fact that the petitioner has admitted in an audio and video recording that he had paid Rs.50,000/- for the purpose of procuring these certificates is a matter of serious concern.

Learned State counsel while further referring to para Nos.5 and 6 of the additional affidavit dated 7.12.2021, has submitted that aforesaid another FIR against petitioner i.e. FIR No. 110 dated 04.05.2015 under Sections 420, 467, 468, 471, 120-B, 201 Police Station PGI MS, Rohtak, was registered and investigated by the local police and after completion of investigation, the final report under Section 173 Cr.P.C. was filed in the Court of Learned Illaqua Magistrate against 41 (Forty one) persons including the present petitioner and a perusal of that FIR revealed that the petitioner is the main accused who had leaked the paper of AIPMT as he was posted as PTI in MDH School, Rohtak and was having access to

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the question paper for Rs. 5,00,000/- (Five lacs only) and in that case the petitioner was arrested on 03.04.2016 and suffered disclosure statement detailing the procedure for leakage of AIPMT question paper and that during investigation, the petitioner got recovered Rs. 20,000/- (Rs. Twenty thousand) from his possession and the trial of the case is pending before the Court of learned Judicial Magistrate First Class, Rohtak. Therefore, the learned State counsel has submitted that considering the antecedents of the petitioner and also the seriousness and magnitude of the allegations against the petitioner, he does not deserve the concession of anticipatory bail. He further submitted that when the arrest of the petitioner was stayed by this Court, the petitioner although came for joining the investigation but did not cooperate at all with the investigation process and did not answer any question put to him by the investigating officer and therefore, his conduct itself would disentitle the petitioner for the grant of concession of anticipatory bail. He submitted that custodial interrogation of the petitioner is required for the purpose of elicitation of truth.

Mr.Narender Singh, Advocate, has caused appearance on behalf of the complainant and has also filed an affidavit of the complainant in which he submitted that the complainant had filed a detailed complaint dated 18.6.2021 against 23 more persons who had secured fake and forged Championship Certificates and had requested the Hon'ble Sports Minister, to take strict action against the defaulters and carry out a vigilance inquiry into the entire scandal. It has been stated in the affidavit that the deponent has no personal grudge with the petitioner and therefore, the allegation

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made by the petitioner is without any basis and rather the complainant had requested the Government to take action against many more persons who have secured gradation certificates on the basis of fake, forged and tampered certificates. He further submitted that mere fact that on 8.7.2019 the petitioner was not present for getting the certificates is immaterial because no procedure was followed by the Sports Department and no verification was done by them before issuance of gradation certificates and the audio-video recording was supplied by the complainant to the police wherein the petitioner had accepted that he has illegally secured this gradation certificate from the Sports Department by paying illegal gratification of Rs.50,000/- and not only this, the father of one accused person Hardik Dhull also telephonically called the complainant and requested him to withdraw his complaint. The learned counsel for the complainant also opposed the grant of anticipatory bail to the petitioner.

I have heard the learned counsel for the parties.

In the present case, the allegations against the petitioner are that he had secured two certificates pertaining to 25th Haryana State Senior Men Taekwondo Championship 2013 held on 11th August, 2013 at Regional Training Centre, North Zone, 10B, New Tagore Garden, Ambala Cantt and 32nd National Senior Taekwondo Championships 2013 held from 20th to 22nd September 2013 at Imphal, Manipur and on the basis of these, he had applied to the Sports Department, Haryana, for getting the gradation certificates which were issued to him by the Sports Department. During investigation, the two certificates submitted by the petitioner seeking

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gradation certificate were found to be fake and fabricated. The argument raised by the learned senior counsel that the petitioner was out of country on 8.7.2019 when the aforesaid gradation certificate was issued by the Sports Department, Haryana, would not become a ground for the grant of anticipatory bail to the petitioner in view of the fact that as per the affidavit filed by the Director, Department of Sports and Youth Affair, Panchkula, Haryana, there was no requirement of any affidavit to be accompanied along with the application and therefore, the application could have been filed even in the absence of the petitioner. Another argument raised by the learned senior counsel for the petitioner that there was delay of two years in lodging of the FIR would also be of not much significance in view of the fact that as per the complainant it was only on the basis of information received by him and counter checked from the website of the Sports Department that the present complaint was lodged by him. So far as the argument raised by the learned senior counsel that the present FIR was result of jealousy of the complainant with the petitioner is concerned, the said allegation has since been specifically denied by the complainant in his affidavit. Another argument raised by the learned Senior counsel that the petitioner has not used the certificates issued to him anywhere for getting any job etc. would also be of not much significance in view of the fact that submitted certificates have been found to be fake by the investigating agency and the mere fact that these certificates along with gradation certificates have not been used by the petitioner cannot become a ground for the grant of anticipatory bail to the petitioner. Apart from the same, it is the

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case of the prosecution that there is an audio-video recording/C.D. wherein allegedly the petitioner had stated that he had secured the gradation certificate from the Sports Department by paying illegal gratification of Rs.50,000/-. In addition to above same, the petitioner is also involved in another FIR No. 110 dated 04.05.2015 under Sections 420, 467, 468, 471, 120-B and 201 IPC, registered at Police Station PGI, MS, Rohtak, wherein he is the main accused in leaking out the paper of AIPMT and FIR has been lodged against 41 persons including the petitioner and he is facing trial. Furthermore, as per the learned Deputy Advocate General, Haryana, even when the arrest of the petitioner was stayed by this Court, he did not cooperate with the investigating agency and did not answer any question put to him with regard to the subject matter of the present case.

It is settled law that while considering grant of anticipatory bail, the Court has to strike a balance between the liberty of an individual on one hand and antecedents and conduct of the petitioner as well as seriousness and magnitude of the case on the other hand apart from the effect of the alleged offence on the society at large. After hearing the learned counsel for the parties and perusing the record, this Court is of the opinion that seriousness and magnitude of the offence based upon the allegations and the antecedents and conduct of the petitioner would disentitle him for the grant of concession of anticipatory bail and the custodial interrogation of the petitioner would be required in the present case.

In view of above, this Court is of the considered opinion that the petitioner in the present case does not deserve the concession of

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anticipatory bail and consequently, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

December 16, 2021.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No