

CRM-M-35582-2022

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

CRM-M-35582-2022

Date of decision: 17.08.2022

Rakesh Kumar

...Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sushant Kareer, Advocate,
for the petitioner.

Mr. C.S.Bakshi, Addl. P.P. U.T. Chandigarh.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case FIR No.64 dated 08.05.2019, registered at Police Station Sector 19, Chandigarh, under Sections 420, 419 and 120-B IPC.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that the petitioner was not named in the FIR and rather has been indicted on the disclosure statement of co-accused, Ramesh Kumar, who stated that the petitioner had arranged the person to appear on his (Rakesh Kumar) behalf in the SSC Multi Tasking Staff Non-Technical Tier-II Exam, held on 28.01.2018; that co-accused, namely, Parveen has since been granted the concession of anticipatory bail, vide order dated 25.05.2021 passed by learned Addl. Sessions Judge, Chandigarh. He further contends that the aforesaid examination was held on 28.01.2018, but the petitioner has been involved

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in the present case on the disclosure statement of co-accused, recorded on 13.07.2022 i.e. after four and half years from the date of the aforesaid examination. In support of his contentions, learned counsel relies upon the judgments rendered by the Hon'ble Supreme Court in 'Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others 2011 AIR (Supreme Court) 312, Bhadresh Bipinbhai Sheth Vs. State of Gujarat & Another 2015(4) RCR (Criminal) 199, and by the Coordinate Bench of this Court in Vidya Devi Vs. State of Punjab, CRM-M-6165-2022, decided on 14.02.2022.

Per contra, learned Addl. P.P, U.T. Chandigarh, while opposing the grant of bail to the petitioner, submits that the petitioner is a king-pin of the present case; that the petitioner is a habitual offender and has as many as two other criminal cases of similar nature, registered or pending against him, and that during investigation, the petitioner had not disclosed the proper address of the impersonator(s).

I have heard the learned counsel for the parties.

As per the case of prosecution, co-accused, namely, Parveen and Ramesh Kumar appeared in Multi Tasking Staff (Non-Technical) (Tier-II Examination 2016), which was held on 28.01.2018; that during scrutiny of documents, handwriting, signatures, and left thumb impressions of said candidates were not found matching with handwriting, signatures, left thumb impressions of the candidates, who had appeared in the Examination Centre and report of CFSL had also been obtained qua the same; that finger-prints of the co-accused were verified and the same had not tallied with the finger-prints on the admission Card of the aforesaid

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examination. Co-accused Ramesh Kumar suffered a disclosure statement that the petitioner had arranged the impersonator to appear on his behalf in the aforesaid examination.

Indisputably, the petitioner has been indicted on the disclosure statement of co-accused, Ramesh Kumar. However, the aforesaid ground cannot be the sole consideration for grant of pre-arrest bail. As to whether the petitioner has been falsely implicated or not, would be subject matter of the investigation. A perusal of the record would show that during investigation, the petitioner had not disclosed the proper address of the impersonator. The nexus between the accused persons, has prevented the meritorious candidates from securing the govt. jobs and thereby has ruined their dreams.

Moreover, the petitioner has a tendency of committing repeated crime of similar nature by following same *modus operandi*. In the considered opinion of this Court, the purpose of investigation would stand defeated by allowing the petitioner to join investigation, especially keeping in view his antecedents. Moreover, the criminal antecedents of the habitual offender(s) like the petitioner, which shatter the very tranquility of the collective, do not entitle him to be enlarged on bail.

So far as the judgments of the Hon'ble Apex Court in Siddharam Satlingappa Mhetre's and Bhadresh Bipinbhai Sheth's cases (supra) are concerned, the same are not applicable to the present case having distinguishable facts, for the reason that in the said cases, there was no criminal antecedents of the appellants therein. However, in the present case, the petitioner has as many as two other cases of similar nature,

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registered or pending against him.

So far as the judgment rendered by the Coordinate Bench of this Court in Vidya Devi's case (supra) is concerned, the same is prior to the recent ruling of the Hon'ble Apex Court rendered in 'State of Haryana Vs. Samarth Kumar', Criminal Appeal No.1005 of 2002, decided on 20.07.2022, wherein it has been held that advantage of the condition that the appellant therein had been indicted on the disclosure statement of the co-accused, can be taken into consideration while dealing with the regular bail application or at the time of final hearing after conclusion of the trial.

In view of the above, this Court finds out that the petitioner is required for custodial interrogation to ascertain the name and address of the persons involved in the present case.

Therefore, finding no merit in the present petition, the same is dismissed.

17.08.2022

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No