

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

**CRM-M-52651 of 2021
Date of decision: 12.01.2022**

Dr. Pawan Gupta

Petitioner

Versus

State of Haryana

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. B. S. Rana, Senior Advocate with
Mr. Nayandeep Rana, Advocate for the petitioner.
Ms. Dimple Jain, AAG, Haryana.

AVNEESH JHINGAN, J (Oral):

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in FIR No. 4 dated 17.11.2021, under Sections 7 and 7-A of the Prevention of Corruption Act, 1988 and Sections 420, 466, 468, 471 and 120-B IPC and Sections 8(3)(4) of the Haryana Public Examination (Prevention of Unfair Means) Act, 2021 registered at Police Station State Vigilance Bureau, Sector 17, Panchkula.

The FIR was registered at the instance of Narender alleging that Jasbir Singh and his associate owners of Software Agency M/s Safedot Esolution Private Ltd. (for short, 'Software Agency') were indulging in procuring jobs from Haryana Public Service Commission ('HPSC') by manipulating OMR sheets. One Brijesh @ Bittu facilitated for getting

candidates for Dental Surgeon. Sombir, friend of the complainant, met Naveen (associate of Jasbir Singh) who demanded Rs.35-40 lakhs for selection as Dental Surgeon. It was instructed that the candidate should attempt 30-40 questions and will leave rest of the OMR sheet blank. The checking work was with Jasbir Singh who would mark rest of the questions. Two roll numbers were given to Naveen out of which one candidate succeeded and the other failed. In the talks held, it was conveyed that the second candidate attempted more questions and he could not get through due to negative marking. Out of the deal struck for Rs.35 lakhs, Rs.20 lakhs were demanded. On a complaint, a trap was laid and Ashwani an employee of the Software Agency was caught red handed. On his disclosure, cash of more than rupees one crore was recovered. On interrogation, he stated that Dr. Pawan Gupta, Controller of Examinations, Ch. Bansi Lal University, Bhiwani, provided four roll numbers for Dental Surgeon examination.

Learned counsel for the petitioner submits that custody of the petitioner is being sought by the State on the ground that recovery of OMR sheets is to be made, names of the candidates are to be disclosed and to find out how much money was received by the petitioner. The submission is that there are no allegations of petitioner receiving any money, copies of OMR sheets are with the candidates, the roll numbers were disclosed by Ashwani and the names of the candidates can be revealed from the roll numbers. He further submits that the petitioner was named as the contract of Software Agency was terminated by Ch. Bansi Lal University. It is contended that WhatsApp chats between the petitioner and Ashwani relied upon by learned counsel for the State are not supported by certificate as per Section

65-B of the Indian Evidence Act, 1872.

Learned counsel for the State relies upon the pleadings of the reply filed to oppose the petition. She submits that it is a scam, *modus operandi* needs to be unearthed. She further submits that apart from the disclosure statement, there are other evidence against the petitioner including WhatsApp chats. The contention is that without custodial interrogation, the deeper probe required for finding the specific role played by each of the accused will not be possible. It is argued that on the basis of the disclosure statement, Deputy Secretary of HPSC was arrested in his office accepting illegal gratification for selection of the candidates.

The evidentiary value of the disclosure statement will not be gone into in this petition for anticipatory bail, the same would be subject-matter of the trial. Suffice to say that apart from the disclosure statement, there is other material against the petitioner. The veracity of WhatsApp chats cannot be gone into at this stage, as it will amount to holding a mini trial.

The contention of learned counsel for the petitioner that there are no allegations of any amount given to the petitioner does not enhance the case of the petitioner. The petitioner's name surfaced in a disclosure statement wherein it was revealed that he was aware of the manipulations being done and had provided roll numbers for selection of the candidates. As per the allegations, the *modus operandi* adopted appears to be well-planned having professional approach, for which not only the *modus operandi* but various other aspects need to be unearthed, the same cannot be achieved if the petitioner is clothed with protection of pre-arrest bail.

No case is made out for grant of anticipatory bail.

The petition is dismissed.

**[AVNEESH JHINGAN]
JUDGE**

12th January, 2022
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| 1. Whether speaking/ reasoned | : | Yes /No |
| 2. Whether reportable | : | Yes /No |