



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2448/2019 & CRL.M.A. 41732/2019 &**
CRL.M.(B) No. 266/2021

Order reserved on : 12.03.2020

Date of decision : 04.07.2022

JAI PRAKASH

..... Applicant

Through: Mr. Maninder Singh, Ms.
Mahima Chaudhary, Ms. Smriti
Ashmita & Mr. Sankalp Kohli,
Advocates.

Versus

STATE

..... Respondent

Through: Ms. Meenakshi Dahiya, APP
for State.
Ms. Meena Chaudhary Sharma,
Advocate for complainant.

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The applicant, vide this application seeks the grant of bail in relation to FIR No. 458/2016, P.S. North Rohini, registered under Sections 420/467/468/471/120B/34 of the Indian Penal Code, 1860, submitting to the effect that he has been falsely implicated in this case, and that the charge sheet in the matter has already been filed and no useful purpose would be served by his further incarceration.
2. Notice of the application was issued to the State.



3. The applicant in the instant case is on interim bail in terms of order dated 26.05.2020 in BAIL APPLN. 2448/2019.
4. The State vide the status report dated 09.10.2019 under the signatures of Inspector Ishwar Singh, Special Staff, Rohini, Delhi submitted to the effect that the FIR was registered on the complaint of Ms. Parul Raj Sharma with allegations of fraud and cheating committed by the applicant - Jai Prakash, who was running an institute in the name of DIAS (Dayal Institute of Allied Sciences) which was earlier situated in Bindapur and later it was shifted to Sec-7 Rohini Delhi that he along with Kanika, Mahesh and others indulged in providing fake degrees and running Physiotherapy Courses through distance from NIMS University Jaipur, though the courses were prohibited by the UGC, and that this Jay Prakash was running a syndicate of providing forged degrees and committing cheating with innocent persons. As per this status report, the complainant had also stated that her husband - Sh. Amit Khatri had also done B.Sc (PCM) from Dayal Institute of Allied Sciences and that the applicant had told her husband that he had got his admission done in EIILM University Sikkim through distance education; that Amit Khatri, husband of the complainant, was interrogated in the case and he informed that he had taken admission in DIAS in B.Sc (PCM) through distance from EIILM University Sikkim with his friend Manik Kapoor, and that the applicant had told them to take their studies and their examination center of the EIILM university at his center with him and had taken their examinations there, and that the applicant charged a fee of rupees 1,80,000/- (one lakh eighty thousand) each for the said course of B.Sc



(PCM) from EIILM University, and that the applicant provided them marksheets and provisional certificates of B.Sc (PCM) of EIILM University and initially the admit cards and marks statements were sent through mail and were later given physically, but they had since learnt that the applicant had cheated them and had committed forgery by providing fake degrees to them.

5. As per this status report, the admit cards and mark statements and provisional certificates were got verified from the HRD Department Sikkim Government and the same were found forged.

6. Vide the status report dated 27.11.2019 under the signatures of Inspector Ishwar Singh, Special Staff, Rohini, Delhi, it was *inter alia* submitted to the effect:-

“During investigation it was found that complainant got admission in MOT i.e. Master in Occupational Therapy in NIMS University Jaipur through accused's institute namely DIAS (Dayal Institute of Medical Sciences), situated in Delhi, in 2010 and completed her degree in 2012 through distance mode. The admit cards of the complainant are at page 148-149 of the charge-sheet reflects the same. As per the agreement between applicant/accused and NIMS University Jaipur, the institute was learning and resource centre of NJMS University Jaipur. As per the documents collected from UGC, the NIMS University was authorized to conduct MOT through distance mode in the alleged period from Headquarters only (State of Rajasthan)- documents of UGC dated 09.09.2009 are at page No.20-23 of charge-sheet. In the case of NIMS University, the territorial jurisdiction/headquarter of NIMS University was only State of Rajasthan.



To support the fact that NIMS University could only conduct classes in the territory/State of Rajasthan, Letter dated 07.09.2012 addressed by Director Distance Education Council to the Vice Chancellor to the NIMS University supports this fact (page 24-32 of charge-sheet). The admit card of the complainant for the year 2012 for MOT reflects the NUGLRC Code as 180A, which belongs to the accused Jay Prakash and the admit card is shown to have been issued by NIMS University Jaipur, Director of Distance Education. Letter dated 05.09.2012 issued by UGC, Distance Education Bureau, Delhi and IGNOU to the Vice Chancellor, NIMS University, the same are available on page 190-191 of the charge-sheet, also clearly reflect that Master's and Bachelor's of Occupational Therapy could only be done through Headquarters as per Serial Nos.30 and 34.

That, supporting the above fact, a letter dated 15.03.2016 issued by University Grant Commission available on page 123 to 125 of the charge-sheet in para (xiii) to (xv) clearly states as follows: -

"xiii) The eligibility conditions for admissions to each course to be offered through distance learning mode shall be as per norms of UGC/AICTE and other regulatory bodies.

xiv) The territorial jurisdiction in respect of University for offering programmes through distance mode will be as per the policy of UGC on territorial Jurisdiction and opening of off campuses/centres/study centres as mentioned in the UGC notification No.F.27-1/2012(CPP-II), dated 27th June, 2013, a copy of which is also posted on the UGC website www.ugc.ac.in/deb.

xv) The programmes in distance mode will not be offered through franchising arrangement and/or through any private institution/college."



The degree of complainant was got verified from NIMS University Jaipur it was told genuine and mode of the Course was told as distance.

It was further stated by the complainant that her exams were got conducted in Delhi (as per Admit Card at page 148 in Dwarka and as per page 149 in Bensups Hospital, Dwarka, New Delhi, instead of university Campus/headquarters in Raiasthan. To ascertain the complainant version Bensup hospital was visited but it was not found in operation, the examination record of complainant was also asked from NIMS University Jaipur as per reply received from university the examination record was not available due to lapse of period more than two years of examination, as per record retain policy examination record is retained only for two years.

As per the order of the High Court in W.P. (C) No.2403/2004 dated 27.04.2010, regarding ban on physiotherapy that NIMS University would not conduct any correspondence course/distance education programme in Physiotherapy except with a prior consent of approved statutory bodies. During investigation of the case NIMS University submitted that they had permission vide letter dated 09.09.2009 issued by Director Distance Education Council IGNOU from Distance education Council which is a statutory body as per Indra Gandhi National Open University Act 1985. The permission of approved statutory body for running the complainant course through distance mode is verified and found correct but it was for headquarter only.

During Course of investigation it was also told by the complainant that her husband- Sh. Amit Khatri also did BSC (PCM) from Dayal Institute of Allied Sciences of Jay Prakash who told her husband that he had got done his admission in EIILM university Sikkam through distance education. Amit Khatri, husband of complainant, was also interrogated in the case who told that he along with his friend-Manik Kapoor got admission in BSC (PCM) in

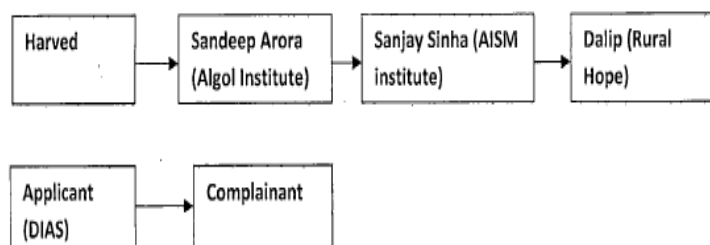


distance mode in EIILM University Sikkam through applicant institute in May 2011. Jai Prakash told them to have study as well as exam center of EIILM university with him and also took their exam on his center. Jai Prakash charged fee of rupees one lakh eighty thousand each from them for said course of BSC(PCM) from EIILM university. Jay Prakash provided them marksheets and provisional certificates of BSC (PCM) of EIILM University. Initially the admit cards and marks statements were sent through mail and later it was given physically by Jay Prakash. Now they come to know that Jay Prakash has committed cheating and forgery by providing fake degree to them.

The original mark card of Amit Khatri & Manik Kapoor were collected which were found of the period 2009-2012. The admit cards and marks statement and provisional certificate were got verified from HRD department Sikkam Govt, the same were found forged. The copy of mail collected from complainant from which initially admit cards, marks statement and provisional certificate were sent by Jay Prakash to them. The admit cards were found sent from dayalbindapur@yahoo.in. This mail was containing name of accused and his institute and mobile No. 9289046129 & 011-65811755. The marks statements and provisional certificate were found sent from dayal.bindapur@gmail.com. The registrant detail of both mail were found in the name of Dayal Institute of Allied Sciences. Mobile No. 9289046129 was found in the registrant detail of Yahoo while Mobile No. 9971761687 was found in the registrant detail of Gmail. The Ownership of both mobile numbers was found in the name of accused- Jay Prakash. Complainant also provided a pen drive containing video clip of applicant where he can be seen claiming secure admission for Physiotherapy Courses.



After going through the trailing mails and interrogating all persons in chain, the trail was found as under:-



The mail trail (through which the degree and mark card were sent) was studied and interrogation made to concerned mail title holders and it was found that the BSC (PCM) mark cards and admit cards of Amit Khatri & Manik Kapoor were downloaded from the domain: www.eiilmuniversity.in which was illegally got prepared by accused Harved and then it were transmitted as per follow chart depict here above.

From the investigation conducted it had been established that it was applicant who had assured the Amit Khatri & Manik Kapoor to have authorized exam and study centre, accept their admission, conducted their exam at his centre and eventually delivered the forged degree to them by taking three lakh sixty thousand rupees with help of other co-accused persons. The main charge sheet in the case has been filed in the Court on 18.04.19. However investigation regarding other accused persons is pending in the case which will be filled in the Court through Supplementary Challan. The main challan is pending in trial Court and NDOH in the case is 12.12.19 for framing charges against the applicant.”,

with it having been submitted by the State that the application deserves to be dismissed as it is wholly devoid of merit.

7. Inter alia on behalf of the complainant, objections dated 25.11.2019 to the bail application were submitted to contend to the



effect that the complainant/objector had lodged the complaint against the applicant Dr. Jai Pakash claiming himself to be the Director of the Dayal Institute of Allied Sciences without approval for conducting various paramedical courses on the basis of being affiliated to various Universities namely NIMS University, Jaipur and that the objector had placed on record a letter dated 09.09.2009 of IGNOU addressed to NIMS University, the other accused in the matter, regarding recognition of NIMS University by the Distance Education Council and that the said letter was placed on the record of the charge-sheet and on the reverse of that document submitted to the police, it was mentioned that the programmes recommended on the back of page 192 were programmes recommended which could be offered only from the headquarters to NIMS University and that the programmes reflected at Serial Nos.3, 4, 8 and 9 and para 6 on page 193, describe the territorial jurisdiction of NIMS University at Rajasthan State and para 7 of that letter reflected that the DEC did not permit the franchise of any study centre, but the brochure of the accused namely DIAS downloaded from the website in the year 2014 clearly reflected the conducting of all the aforementioned courses. The objector further submitted that various documents seized by the Investigating Agency reflected that the MOT and BOT, MPT and BPT courses were regularly conducted by applicant Jai Prakash accused in collusion with NIMS University.

8. The objector has further submitted to the effect that although she had been claimed by the accused/NIMS University as being their



student of distance mode, who had been granted a degree however her mark-sheet reflected the contrary and that when the objector did not go to the State of Rajasthan, which was the Headquarter of NIMS University, how she could be granted a degree and how the applicant could conduct examinations in Delhi.

9. Inter alia, the objector/complainant has submitted that the accused NIMS University through its Registrar has also given false information regarding conducting the courses of the Master of Occupational Therapy having a duration of two years and as per the letter dated 09.09.2009 of the Indira Gandhi National Open University issued by the Director/Professor to the Vice Chancellor, NIMS University at Program mentioned as Point 2 Serial No. 4, it was clearly mentioned (PROGRAMS RECOMMENDED WHICH could BE OFFERED ONLY FROM ITS HEADQUARTERS). 4 MASTER OF OCCUPATIONAL THERAPY. DURATION- 2 YEARS.

10. Inter alia, it has been submitted through the objections that clause 6 and 7 of IGNOU are very important which are as follows:

"Clause 6 "The territorial jurisdiction for the institutions (both Private and Government funded) shall be the headquarters, and in no case outside State. Thus, territorial jurisdiction of your institution shall be Rajasthan State."

Clause 7 "The Distance Educational Council prohibits franchising of study centers. Thus, your institution will not franchise any study centre outside the State."



with it having been submitted that vide the letter dated 02.05.2016 sent by UGC also reflected that the university was not authorized to open study self centre/off campus centre beyond the territorial jurisdiction of the State as the petitioner in case of ***Prof. Yash Pal vs. The State of Chattisgarh (2005)***. It was submitted by the objector that the university being a private university, it cannot open its centre(s) even within the State as per the provision of the UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003 without the approval of UGC and that the UGC had not granted any approval to the NIMS University to open off campus/study centre anywhere. It was further submitted by the objector/complainant that the UGC vide its circular dated 23.08.2013 clearly defined the territorial jurisdiction of the Universities and Institutions offering programs through off-campus/study centers and highlighted the observations in the letter of IGNOU dated 12.12.2018 to the effect that:

"The UGC has not granted any approval to the university to open off campus/ study centers anywhere."

11. Inter alia the objector complainant had submitted that the documents issued by IGNOU and attested and forwarded by Registrar NIMS University, Rajasthan dated 21.05.2016 reflect that the Masters of Occupational Therapy course could only be conducted by the headquarters and the University through its Registrar falsely claimed in reply to a notice u/s 91 Cr.P.C that as per the letter of DEC/UGC, Master of the University had the permission to run the Master of



Occupational Therapy Course through Distance Mode which the complainant submits is a false statement as indicated through the chargesheet which clearly enumerates that only the headquarters could conduct Occupational Therapy classes.

12. Inter alia, the complainant had submitted that NIMS University has very cleverly vide letter dated 28.02.2019 claimed that all records pertaining to examination of students in 2010 to 2012 were not available which amounted to destruction of evidence by the accused NIMS University.

13. The complainant has further submitted that in terms of order dated 22.04.2010 of this Court in W.P. (C) No.2403/2004 titled ***Indian Association of Physiotherapist Vs. Union of India and Ors*** there was a ban on the physiotherapy courses through distance education mode and vide letter dated 17.05.2010, the operation of the order was confirmed with it further being submitted by the complainant that vide order dated 27.4.2010, the said writ petition was disposed of with observations to the effect:

“Under the circumstances, we dispose of this Writ Petition with a direction that henceforth, the respondent No. 4 to 8 will not conduct any correspondence course/distance education program in physiotherapy except with a prior consent of the approved statutory bodies.”

14. The complainant has further submitted that despite this ban the NIMS University in collusion with the petitioner, kept on conducting examinations and circulated mark-sheets of physiotherapy courses and the documents relating to the same showing the admit cards of



various students for physiotherapy courses and that various queries were raised by the Investigating Officer from the NIMS University as well as the UGC and false information was given throughout by the NIMS University in reply to the queries and in fact, the NIMS University also claimed to destroy various results of BPT and MPT courses as also the details of the said students who passed the said courses.

15. The objector/complainant has further submitted that she had saved/downloaded data from the websites of the NIMS University and has thus filed a list of various students who have appeared for various courses, which were banned by distance mode, but still conducted by the NIMS University in collusion with their various learning centres including the centre of the accused in Delhi and also submitted the stated manipulated result circulated by the NIMS University .

16. The objector/complainant has further submitted to the effect that a brochure of DIAS is already on record alongwith the charge-sheet and a further pamphlet of the institute and that these brochures and pamphlets were provided by the accused Jai Prakash to the objector/complainant. It is further submitted by the objector/complainant that as per this brochure at Serial no. 6 and 7 are courses of Bachelor of Physiotherapy and Bachelor of Occupational Therapy respectively have been shown whilst at Serial no. 1 and 2, the courses Master of Physiotherapy and Master of Occupational Therapy respectively have been shown.

17. The objector/complainant has further submitted that the information placed by the accused Jai Prakash on the website



www.facebook.com reflects that the admissions were open for the session (July 2013 Session) of the following courses :

Paramedical

MPT

BPT

submitting to the effect that the accused was not permitted to project for conducting MPT and BPT through Distant Mode of Education.

18. Inter alia the objector/complainant has submitted to the effect that as per the document dated 21.5.2016 sent from the office of the Registrar NIMS University, the said university had mentioned in answer to Question No. 3, as follows:

"The university granted the status of NUGLRC TO DIAS in 2010 for the program attached herewith"

as well as in reply to query No.4 the Registrar had replied to the effect:

"No, now DIAS is not a NUGLRC of NIMS University. The center did not request for renewal of NUGLRC since 2012."

19. The objector/complainant has further submitted that the examination schedule of the NIMS University shows the date of conduct of the examination of physiotherapy at Serial Nos. 53, 54, 55 and 56 respectively on various dates in August, 2013 and examination schedule for occupational therapy was shown at Serial No. 57, 58, 59 and 60 respectively whilst Master of Physiotherapy Examinations are also shown to have been conducted.



20. The objector/complainant further submits that based on the documents collected in the chargesheet, the objector/ complainant had also shown a copy of a Sting operation between the accused Jai Prakash and a prospective student where the accused Jai Prakash had openly admitted the following facts:

“A. That without attending actual classes, he gets the children pass in the exam.

B. That the university is in league with him.

C. That he even visits Dubai and other Gulf Countries and conducts personal Examination of students who are shown to be enrolled in the NIMS University but in actual, they have never come to NIMS University as students.

D. That students with arts/non-science background have also been got admitted by him in medical courses.

E. That the transcript of the Sting Operation reflects that the accused-Jai Prakash has stated that he is conducting exams in India as well as in UAE and he was also expert in giving admission to students in 'lateral mode", in which one can give three years preceding papers in one year.

F. Various photographs of students giving practical and theory exams in Delhi, as uploaded by accused on the website in which the complainant has been seen.”

21. Inter alia, the objector has submitted to the effect that, the NIMS University, through its Registrar has given false replies vide a letter dated 22.08.2016, as per which letter, the Registrar had falsely claimed that Dayal Institute of Allied Sciences (DIAS) was a



Guidance and Learning Resource Centre (GLRC) of the NIMS University and the admission of the complainant was facilitated by the Dayal Institute of Allied Sciences (DIAS). Inter alia, the objector/complainant further submitted that it had also falsely admitted that the mode of education of the complainant was through the distance education and that the Directorate of Distance Education was supervising the practicals, exams, classes and vivas of the course of MOT and that though, the Directorate of Distance Education, as per the letter detailed through the objections had already clarified that MOT could not be conducted through distance learning, outside the State of Rajasthan.

22. Inter alia, the complainant has submitted that the NIMS University, was also given a notice dated 18.06.2016, to which queries raised by the earlier Investigating Officer were either not answered properly or false replies were given, at question No.14, it had falsely replied to the effect that the examinations were conducted by the Directorate of Distance Education (DDE), which is a false statement, as DDE does not conduct any courses, but that the University concerned has to conduct the same within its own territorial jurisdiction.

23. The objector/complainant has further submitted that the visiting card of the accused Jai Prakash reflects the name of the other accused Mahesh Kumar as Administrator and reflects DIAS affiliated to NIMS University, Jaipur and the backside of this visiting card reflects the courses being conducted by the institute of the accused, Jai Prakash, as MPT, MOT, BPT at Serial No.1. Inter alia, the objector/complainant



has further submitted that whilst the fee receipt issued by the accused claiming himself to be affiliated from the Government Recognized University and recognized by UGC and HRD, issued in the name of the complainant. Parul Raj Kamal Sharma, for an amount of Rs.27,000/-, the statement of the marks of the complainant filed with the charge sheet reflected that the complainant had done Master's from the accused NIMS University, directly through her Admit Card and Identity Card filed with the charge which reflected the complainant as a student of distance education.

24. Inter alia, the complainant/objector submits that to save the officials of the NIMS University and the accused herein, the Investigating Officer did not investigate the case properly, as the Admit Card for the August 2011 Examination had been issued by the NIMS University and attested/verified by DIAS, the accused, which showed that the examination centre of the complainant was "Bensups Hospital" at Sector 12 Dwarka, New Delhi, which was not found in operation and no concerned person or record of required period was met in the hospital.

25. The objector/complainant has further submitted that the Investigating Officer had failed to investigate the matter fairly though the complainant had provided information and documents that the NIMS University admitted the complainant in the MOT course through **distance mode** and had provided the MOT mark sheet through **regular mode**.

26. Inter alia, the objector/complainant had submitted that although the prosecution has charge sheeted the accused Jai Prakash and his



other associates for fabrication and forgery of EIILM University and other offences under the IT Act, the accused Jai Prakash, his other associates and the Registrar, the Vice Chancellor of the NIMS University, the Controller of Examination of NIMS University and all other persons who are connected with the said University and responsible for issuing false certificates of regular examinations and courses being conducted contrary to notifications of the Government and the judgments of the Hon'ble Supreme Court of India and the High Court of Delhi are yet to be summoned.

27. The complainant/objector has further submitted that the accused is not entitled to be released on regular bail, as there is a constant threat to the objector/complainant either to withdraw her case or not to pursue it further, or else to face dire consequences.

28. The objector/complainant further submitted that the accused Jai Prakash and the NIMS University have already managed to destroy several incriminating materials to prevent the same from seizure and that the material the objector/complainant has supplied to the Investigating Officer is likely to be tampered with in case the accused is granted the liberty of regular bail. The objector/complainant has thus submitted that the applicant having conducted fake examinations, granted fake degrees, forged documents, made misrepresentations, inducements, criminal breach of trust, cheating and threats was thus not entitled to the grant of bail.

29. An additional status report dated 6.1.2020 was submitted by the State to submit to the effect that during the course of further investigation another accused Harved, who had got prepared the



domain of EIILM University from which the forged degrees were forwarded to the complainant was arrested in the case and a supplementary chargesheet had been prepared against him by putting his name in column no. 11 and others named - Sandeep Arora, Sanjay Sinha and Dalip who were intermediaries and had forwarded the mail having attached forged certificates to downward hierarchy were put in Column No. 12 and the name of the then Registrar NIMS University, Jaipur- Dr. KP Singh and one Anil Yadav had also been put in Column No. 12 of the supplementary charge sheet which had been filed on 6.1.2020.

30. Through written arguments submitted on behalf of the complainant dated 16.3.2020, the complainant had submitted that the first issue is cheating and forgery conducted by the applicant in collusion with the NIMS University whereby the aspiring students have been duped of their hard earned money and that the applicant had got conducted examinations by distance mode in the Master of Physiotherapy as well as Master of Occupational Therapy examinations for which he had no authorization from the NIMS University, Jaipur, to conduct the same in Delhi and that the officials/ Administrator/ Controller of Examination were all hand in glove with the accused for conducting of the off Campus Examinations in contravention of the UGC Guidelines submitting to the effect that in the charge sheet in paragraph 2 itself it had been stipulated to the effect:

"The DEC also accorded continuation of recognition to NIMS University, Jaipur, to offer



MOT, through distance mode, only from its Headquarters."

- 31.** Inter alia, the complainant had submitted that clauses 6 and 7 also stipulate to the effect:

Clause 6 "The territorial jurisdiction for the Institutions (both Private and Government funded) shall be the headquarters, and in no case outside State. Thus, territorial Jurisdiction of your Institution shall be Rajasthan State."

Clause 7 "The Distance Educational Council prohibits franchising of study centers. Thus, your institution will not franchise any study centre outside the State."

- 32.** The objector/complainant has also referred to the averments in the charge sheet to contend to the effect that it had been stated therein to the effect:-

"Being a Private University, it cannot open its centre(s) even within the State as per the provision of UGC (Establishment of and Maintenance of Standards in Private Universities) Regulation, 2003 without the approval of UGC. The UGC has not granted any approval to the NIMS University to open off campus/study centre anywhere."

- 33.** The complainant also submits that the brochure of the Institute of the accused also reflects his address and at serial No.4, he projects the Diploma in Physiotherapy is being conducted by him (which is banned by UGC and orders of this Court) and also reflects the address of the institute of the accused affiliated to NIMS University, Jaipur,



recognized by Joint Committee UGC which is also contrary to the contents adverted to herein above. The complainant had further submitted that the brochure also reflected the lateral entry for courses (which meant that the person could be admitted presently for courses from back date).

34. The complainant has further submitted that the charge-sheet reflects the website, advertisement of the accused for courses in Session of 2013, where under the head of Paramedical, the accused reflected the courses at MPT, MOT, BPT and BOT (which cannot be done outside the State of Rajasthan, as per UGC and DEC guidelines).

35. The complainant further submits that in the brochure of the accused available on the website, the courses of Occupational Therapy and Physiotherapy are reflected in Column 1 and 2 respectively.

36. The complainant has further submitted that on internal page 149 of the charge-sheet, is the Admit Card issued to the complainant for MOT course issued by NIMS University, Directorate of Distance Education and the Examination Centre in the Column No.6 has been shown as "Bensups Hospital" and that the Admit Card on page 148 of charge-sheet, shows the Admit Card of the complainant through Directorate of Distance Education; that on page 156 of the charge-sheet, is the Identity Card of the complainant, which also reflects "Directorate of Distance Education, NIMS University", while the mark-sheet of the Year 2011 and Year 2012, available on page 150 and 151 of the charge-sheet does not reflect the complainant as a Distance Education Student. The complainant has submitted that the



schedule of examination of NIMS University of various courses including Physiotherapy and Occupational Therapy (in column Nos.55 to 60 and 96 to 104) in Distance Education held in the year 2013.

37. The complainant has also placed the brochure of the accused provided, submitting that it was to induce and dupe the students into taking admission through the institute of the accused, namely, Dayal Institute of Allied Sciences. This brochure is attached on page 52 and 53 of the objections filed by the complainant and on page 53, the photograph of the accused is reflected and also the course of physiotherapy and occupational therapy being conducted by him at Serial Nos. 1, 2, 6 and 7, while the Hospital which the accused claimed to have been associated has been reflected under the title of "Attached to Multispeciality Hospitals" and below this title, the name of Hospital has been reflected as "Sups Hospitals" Sector 12, Dwarka New Delhi (in the first three letters, the "Ben" from the word "Bensups" is missing in the photocopy).

38. The complainant further submits that at running Page 59 of the objections filed by the complainant, the same reflects the blank answer sheets of the NIMS University, which reflects the Centre Code of the accused Jai Prakash being "180A" and on page 63 of the objections filed by the complainant, reflect the name of accused Jai Prakash at Serial No.2486 in the course of MPT (Neur) and the name of co-accused Kanika Negi at Serial No.2501 in the course of MPT (Paed). Name of the centre Number of the accused is shown as "180A" while perusal of pages 61, 62 and 63, show the name of candidates



belonging to the Centre No.180A of the accused and the courses for which the candidates are appearing are BPT, MOT and MPT, which cannot be done in distance mode.

39. The complainant has further submitted that on pages 66 to 69, there are the mark-sheets and admit card of the candidate Kiran Malyan, who has been shown as a student of Master of Physiotherapy in the year 2012 and 2013 and that Pages 66 and 67 reflect the name of Ms. Kiran Malyan for the course of Masters in Physiotherapy and there is no mention of distance education on these two pages, while the third page (internal page 68 of the charge-sheet and page 66 of the objections filed by the complainant), reflects an admit card in the name of Ms. Kiran Malyan issued by NIMS University under the Directorate of Distance Education and that on running page 69 of the chargesheet, is a mail sent by the co-accused Dr. Kanika who is the wife of main accused, Jai Prakash, wherein re-scheduling of examination in the year 2013 has been sent to Ms. Kiran Malyan.

40. The complainant submits further that another letter dated 27.04.2016, which is on running page 36 of the chargesheet and page 80 of the objections filed by complainant, reflects in column 3 that Physiotherapy Course " is not being offered under distance education programme of NIMS University", column 4 "NIMS University never affiliated DAIS" and it was only a guidance and learning resource centre of NIMS University, NUGLRC from 2011 to 2012. The complainant submitted that the documents filed alongwith objections are either part of charge sheet or part of complaint of complainant



under Section 200 Cr.P.C. and that the letter dated 22.08.2016, which is on page 81 of the charge-sheet and page 83 of the objections of complainant, reflects that NIMS University made false claims, as follows:-

that 1(b) and (d) the mode of education of Parul Sharma was distance mode;

that however, the answer to the query by NIMS University on running page 86 to 87 of charge sheet, reflects that the examinations were being conducted by Directorate of Distance Education, as per paras 3, 11, 12, 13, 14.

41. The complainant submits that she categorically had stated that she had appeared for the exams in Delhi, which was conducted by the accused Jai Prakash at his centre in Delhi. The NIMS University has given evasive reply, placed on page 91 claiming that since the complainant was not a student of BPT, so they would not reply to the queries of I.O.

42. The complainant has further submitted that on pages 106 and 107 of charge-sheet and running page 95 and 96 of the objections, reflect that the accused/NIMS University has stated that Dr. Parul Rajkamal Sharma was enrolled in Occupational Therapy, NIMS University, Rajasthan, from where she passed in the year 2012 and that the University had permission to run the Master of Occupational Therapy course through Distance Education Mode which statement the complainant claims is patently false, because, the statement and claim of the accused NIMS University and also the accused Jai Prakash is that Dr. Parul Sharma was granted a valid degree under the



Distance Education Council by NIMS University, but the degree of the complainant does not reflect the complainant as a student of Distance Education Mode and that the complainant is affected by this false nomenclature as claimed by the accused Jai Prakash and co-accused NIMS University, who have been placed on column 12 vide the Supplementary Charge-sheet in an educational course, which cannot be legally conducted by a University in distance mode, outside the territorial limit of State of Rajasthan/Jaipur Headquarter, **cannot be valid**, as the same was not recognized by the UGC or the Distance Education Council and hence, the complainant has been duped and cheated of her hard earned money and her degree is not valid for admission or job according the International Standards for such qualification/employment of Occupational Therapy/Therapist.

43. The complainant submits that the Institute of the accused was illegally conducting courses for physiotherapy being BPT and MPT under distance mode, which has been banned since the year 2010 and accused NIMS University and accused Jai Prakash were hand in glove, in conducting these courses through distance mode and imparting degrees to persons illegally, who had no practical knowledge or training in the field of physiotherapy. The complainant submits that this fact has also been admitted by the accused Jai Prakash himself in the audio video recording, which has been filed by the prosecution vide supplementary charge sheet, supplied by the complainant, wherein the accused openly admits that he had been conducting courses and exams in Gulf Countries without the persons actually coming into India for giving Exams.



44. The complainant submits that cheating and fraud has been committed by Jai Prakash by conducting exams through Lateral Entry for courses being allegedly imparted by EIILM University Sikkim, through which the accused Jai Prakash claimed to get lateral entry of Shri Amit Khatri and Manik Kapoor for the courses of B.Sc. and as per the statement of Manik Kapoor and Amit Khatri, the hard copies of the Admit Cards and other documents were handed over by accused Jai Prakash at his Centre in Rohini, while a sum of Rs.1.80 Lakhs each were charged from them and no receipt was given, on the promise of supplying the same later on and they appeared for exams in Rohini.

45. The complainant submits that qua the contention of the accused that since Shri Amit Khatri has stated that he met the accused in the year 2011 then how the degrees of 2009 were provided to Amit Khatri, the pamphlet of the accused which has been mentioned on page 154 of the charge-sheet and running 31 of the objections of the complainant, clearly reflects that lateral entry was being done by the institute of the accused and it is for this reason, the exams of all three years were conducted by the accused Jai Prakash at his Centre in Rohini. The complainant submits that the fact that the degrees were fake only came to the knowledge of the complainant and her husband when they applied to EIILM University Sikkim for supply of degree and by sending a bank draft, but no response came forward from EIILM University and after the F.I.R. was lodged, the EIILM University wrote a letter to the Investigating Officer that the mark sheet and documents sent by the IO which were supplied by the accused to the complainant's husband and given to the IO were not



genuine, but fake. It is submitted that Shri Amit Khatri did not interact or know any other person except accused Jai Prakash and co-accused Kanika who had conducted exams, received fee and who had forwarded the mails of the fake mark sheets and degrees, despite knowing the same to be false and fake. The complainant submits that the accused cannot claim innocence regarding the same.

46. The complainant has further submitted that the accused persons have also been threatening the complainant through various modes for compromising and withdrawing her complaint, copy of such complaint placed on page 99-101 of the objections. The IO had several times been apprised of the same by written complainant and representations, but no action was taken on the same and the accused has also destroyed vital documents with the connivance of NIMS University and as such, the accused does not deserve any leniency of the grant of regular bail, as the accused persons may further pressurize witnesses and tamper with the evidence. The complainant further submits that the investigation is tainted and shoddy to benefit the accused persons.

47. On behalf of the applicant, it has been submitted that during the investigation of the case/FIR, the complainant had improved her allegations and alleged that complainant's husband namely Amit Khatri and his friend Manik Kapoor got admission in B.Sc. (PCM) in EIILM University, Sikkim through the applicant/accused, who allegedly charged Rs. 1,80,000/- each for the said course and provided them forged marksheets and provisional certificates of B.Sc. (PCM) of



EIILM University, but that the complainant had failed to provide any document which could show the entry of the alleged amount.

48. The applicant, vide this Bail Application, has contended that according to the statement under Section 161 of the Cr.P.C, 1973 of the husband of the complainant, the husband of the complainant had come into contact with the applicant/accused in the year 2011 whereas the alleged fake marksheets as provided by the complainant's husband were of the year 2009-2011.

49. *Inter alia*, the applicant submits that though the complainant has alleged that the applicant/accused is providing the fake degree to the students with internal setting with the NIMS University, Jaipur, Rajasthan, the degree provided by the applicant/accused to the complainant i.e., Parul was found to be genuine by the Investigating Officer. The applicant further submits that the admit card which was provided by the applicant/accused to the complainant bears the stamp of the Dayal Institute whereas the admit card of Amit Khatri bears the stamp of some other college.

50. The applicant has submitted that the only evidence against him, as per the prosecution's version, is that he had sent the alleged admit cards, marks statements and provisional certificates to Amit Khatri and Manik Kapoor through his email ID, which does not constitute any act of cheating and forgery by him.

51. *Inter alia*, the applicant submits that there is no direct or indirect evidence on record to suggest that the applicant was involved in the commission of any crime as alleged by the prosecution and submits further that he has been falsely implicated and there has been



no recovery effected from him nor is any specific role attributed against the applicant in the charge sheet, that the applicant is the only bread earner of his family, he has old aged parents and his mother remains ill and he has a wife and a minor child.

ANALYSIS

52. On a consideration of the entire available record and rival contentions raised on behalf of the either side, this Court is of the considered view that the allegations levelled against the applicant of having allegedly conducted the Masters of Occupational Therapy course under the aegis of the NIMS University through distance learning at Delhi in contravention of the UGC Guidelines as per the UGC (Establishment of and Maintenance of Standards in Private Universities) Regulations, 2003, as clarified vide its circular dated 23.08.2013 and as observed in the letter of the IGNOU dated 12.12.2018 and as indicated vide letter dated 21.05.2016 from the Registrar NIMS University that the Masters of Occupational Therapy course could only be conducted at the Headquarters of the University at Jaipur and as reflected vide the communication received from the UGC mentioned in para 2 of the charge sheet to the effect that the DEC had accorded continuation of recognition through NIMS University Jaipur to offer MOT through Distance Mode only from its headquarters and that vide Clause 7 of the UGC Guidelines, the Distance Educational Council had prohibited franchising of study centers outside the State, coupled also with the orders of the learned Division Bench of this Court in W.P. (C) No.2403/2004 dated 22.04.2010 in *Indian Association of Physiotherapist Vs. Union of*



India and Ors. prohibiting the conducting of any correspondence course/distance education program in physiotherapy except with a prior consent of the approved statutory authorities though the NIMS University and the DIAS i.e., Dayal Institute of Allied Sciences were not parties to that list, nevertheless, the UGC and the Distance Educational Council were undoubtedly arrayed as respondent Nos.2 and 3 to that writ petition, and thus, it is indicated *prima facie* that the distance learning course conducted at Delhi and offered to be conducted at Delhi by the applicant despite their degree of the complainant in the MOT as issued by NIMS being found to be genuine, nevertheless indicated commission of gross violation of the UGC Guidelines qua distance learning and the prohibition of the UGC and the DEC for conducting of the Masters of Occupational Therapy course by any university beyond its headquarters through distance learning which is wholly detrimental to the society at large resulting into professional inexpertise.

53. The contention of the complainant that her degree in MOT through the distance mode is insufficient for getting any job internationally, cannot be overlooked and *prima facie* the submission of the applicant that she has been cheated, appears to be plausible.

54. Furthermore, the status reports dated 09.10.2019, 27.11.2019 and 06.01.2020 submitted by the State alleged to the effect that forged certificates and degrees qua the spouse of the complainant and his friend were issued in relation to the EIILM University Sikkim for the B.Sc (PCM) course through distance learning in relation to which the admit cards were sent through the mail of the applicant vide mail



dayalbindapur@yahoo.in, which mail contained the name of the applicant, his institute and mobile Nos. 9289046129 and 011-6581 1755, and the marks statements and provisional certificate were sent from dayal.bindapur@gmail.com. As per the status report dated 27.11.2019 submitted by the State, the registrant detail of both mails was found in the name of Dayal Institute of Allied Sciences and the Mobile No. 9289046129 was found in the registrant detail of Yahoo while Mobile No. 9971761687 was found in the registrant detail of Gamil and the ownership both mobile numbers was in the name of the applicant, and the applicant allegedly took a sum of Rs. 3,60,000/- in toto from Amit Khatri and Manik Kapoor who were cheated allegedly by issuance of forged mark sheets and provisional certificates of the B.Sc (PCM) EIILM University. The said offences allegedly committed by the applicant of issuance of fake admit cards, fake marksheets and fake provisional certificates to students is apparently a grave offence, in relation to which, it is not considered appropriate to release the applicant on bail, despite the contention of the applicant that in the original FIR lodged by the complainant, there were allegations only in relation to the complainant having been duped into attending an MOT course in Physiotherapy through distance learning at Delhi in contravention of the UGC Guidelines and the dictum of this Court in W.P. (C) No.2403/2004 vide order dated 22.04.2010.

CONCLUSION

55. In the circumstances, the bail application of the applicant i.e., the BAIL APPLN. 2448/2019 is dismissed and the applicant, who is



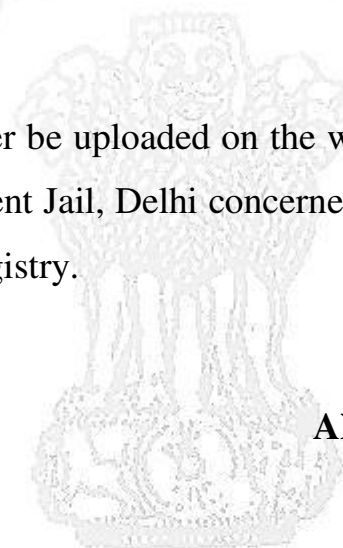
on interim bail in terms of order dated 26.05.2020 initially granted in CRL.M.A. 6659/2020 which order has thereafter been extended vide orders dated 09.03.2021 in relation to CRL.M.(BAIL) 266/2021, and thereafter vide orders dated 05.04.2021, 16.04.2021, 15.09.2021 and 24.09.2021, is directed to surrender to the Superintendent Jail, Delhi concerned on or before 15.07.2022.

Nothing stated herein shall amount to any expression on the merits or demerits of the trial of FIR No. 458/2016 Police Station North Rohini.

Copy of this order be uploaded on the website of this Court, be sent to the Superintendent Jail, Delhi concerned and to the counsel for the applicant by the Registry.

JULY 04, 2022
HA/SV

ANU MALHOTRA, J.



सत्यमेव जयते