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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 09.05.2023

Ashwani Kumar

..... Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Anurag Singh Tagra, Advocate,
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in FIR No.0002 dated 27.11.2020 under Sections 420, 467, 468, 471 IPC and Section 120-B IPC (added later on) registered at Punjab State Crime Police Station, SAS Nagar Mohali.

2. The brief facts of the case are that a complaint had been received in the office of the Bureau of Investigation, Punjab, to the effect

that Kuljinder Singh, Baljinder Singh and others had filed a CWP-13159-

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2020 (O & M) titled as 'Kuljinder Singh and others Vs. State of Punjab and others' and CWP No.8552-2020 (O & M) titled as 'Baljinder Singh and others versus State of Punjab and others' before the Punjab and Haryana High Court in which they had disclosed about the irregularities done by the PSPCL at the time of recruitment of Assistant Linemen. The High Court had passed an order dated 27.10.2022 to the effect that since there were allegations of fake experience certificates, etc. being accepted by PSPCL, the DIG/IG, Crime was to file an affidavit narrating the investigation conducted and also to examine the role of the officials/officers of PSPCL in accepting the alleged fake experience certificates. On the basis of the order of the High Court, an investigation begun and the writ petitioners-Kuljinder Singh and Baljinder Singh were joined in the investigation. Baljinder Singh got recorded a statement to the effect that in the month of October, 2019, PSPCL had advertised posts for the recruitment of the Assistant Linemen and he had applied for the same. He had been called for counselling and had produced all his educational certificates. As per the advertisement, 10 experience certificates were required and on this count, many candidates had got recruited by furnishing fake experience certificates. There were irregularities in this recruitment due to which he (Baljinder Singh) alongwith 06 other candidates had filed CWP-8552 of 2020 before the High Court. Apart from this, 22 more candidates had filed CWP-13159-2020 and in these petitions, the PSPCL had filed their responses. He (Baljinder Singh)

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Court in which they had mentioned Baljinder Singh son of Jarnail Singh, Bahadur Singh Jabandha son of Gurdev Singh, Kamaldeep Singh son of Kartar Singh, Jaswinder Singh son of Darshan Singh, Pargat Singh son of Indraj Singh, Gurpreet Singh son of Darshan Singh, Palwinder Singh son of Malkit Singh and Malwinder Singh son of Sukhdarshan Singh having joined by producing fake experience certificates.

The PSPCL had also conducted an investigation of 04 candidates at their own level and it was found that Kamaldeep Singh and Malwinder Singh had produced fake certificates. Legal action was sought against the accused.

Thereafter, the writ petitioner Kuljinder Singh had joined investigation and got recorded his statement that in 2019, he had applied for the post of Assistant Lineman, had been called for counselling and had produced all the educational certificates. However, he had not been selected as he was not having any experience certificate. Thereafter, he had come to know that some candidates had produced fake certificates on account of which he alongwith 22 other candidates had filed writ petitions bearing CWP-13159 of 2020 and CWP-8552-2020.

Keeping in view the seriousness of the matter, vide office order No. 10915-22/CR/LA-1 dated 27.11.2020, a Special Investigation Team (hereinafter referred to as 'SIT') was constituted under the chairmanship of Inspector General of Police, Crime-1, Bureau of Investigation, Punjab to

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General of Police, Crime Zone, Patiala, Superintendent of Police, PBI, Patiala and Deputy Superintendent of Police, PS State Crime, S.A.S Nagar, Punjab as members. Subsequently, the Director, Bureau of Investigation, Punjab, Chandigarh, vide office order No. 4680/CR-LA-1, dated 13.07.2022 reconstituted the aforesaid Special Investigation Team (SIT) under the chairmanship of the AIG/State Crime comprising of DSP, Crime Zone, Patiala and DSP, State Crime, SAS Nagar as members for conducting investigation of the present case.

The SIT commenced investigation and the statements of witnesses were recorded under Section 161 Cr.P.C. The record, including the experience certificates in question, was obtained from the office of PSPCL, Patiala and the same was thoroughly examined, in light of the orders passed by this Court. Thereafter, the process of verification was initiated and an interim report was submitted to the Director Bureau of Investigation Punjab, Chandigarh, mentioning that the record obtained from the office of PSPCL, Patiala was being verified during investigation of the present case, which was under progress and strenuous efforts are being made to take the same to its logical conclusion.

The SIT conducted a detailed investigation of the present case. During investigation, it transpired that a total of 3500 candidates had applied for the post of Assistant Lineman in the office of PSPCL, Patiala. Out of 3500 candidates, 2806 candidates were appointed against the sanctioned posts. The remaining 694 posts are still lying vacant. It further transpired

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that out of the aforesaid 2806 candidates, 906 candidates did not obtain the benefit of experience certificates whereas 1900 candidates obtained the benefit of experience certificates. During the verification process, certificates of 530 candidates were found to be genuine, whereas out of the remaining 1370 candidates, 25 certificates were found to be fake/forged and remaining 1345 certificates were found to have been issued by various firms/contractors/institutes etc. but no record with regard to the experience cited in the said certificates was produced either by the concerned firms/contractors/institutes etc. or by the said candidates.

As already mentioned, during investigation experience certificates/documents of the 25 candidates i.e Rajinder Kumar s/o Tarsem Chand, Gurdarshan Singh s/o Pargat Singh, Harinder Singh s/o Gurdev Singh, Mandeep Singh s/o Bhupinder Singh, r/o Vill. Gaga, P.S. Lehra Gaga, Distt Sangrur, Jugmeet Raj s/o Baldev Raj, Raghubir Singh s/o Sham Lal, Narinder Pal Singh s/o Raghvir Singh, Pardeep Kumar s/o Prem Chand, Ramesh Kumar s/o Mangat Ram, Vijay Kumar s/o Sher Singh, Raman Kumar s/o Atma Ram, Balkar Singh s/o Joga Singh, Chamkaur Singh s/o Buta Singh, Manjit Singh s/o Gurcharan Singh, Salinder Kumar s/o Dharam Chand, Harjinder Singh s/o Gurmeet Singh, Jagtar Singh s/o Ram Asra, Sanjeev Sharma s/o Hira Lal Sharma, Parwinder Singh s/o Gurdas Singh, Harjinder Singh s/o Balkar Singh, Baljit Singh s/o Nirmal Singh, Khem Parkash s/o Prabh Dayal, Rajesh Kumar s/o Ramesh Chander, Raj Kumar

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fake/forged. The abovesaid persons were nominated as accused in the present case vide DDR No. 12 dated 23.01.2023. In furtherance thereto, special reports were prepared and sent to the Illaqa Magistrate and senior officers. Out of aforesaid 25 accused persons, 24 accused persons were arrested in the present case on 23.01.2023. They were produced before the Trial Court on 24.01.2023 and their police remand was obtained for one day, after which, vide order of the Trial Court dated 25.01.2023, they were sent to judicial custody at Central Jail, Patiala. However, one accused Amir Chand could not be arrested.

During the course of further investigation, Class-A contractors namely (i) Daulat Ram, (ii) Ashwani Kumar (petitioner) (iii) Teja Singh, (v) Jagdev Singh, (v) Sukhdev Singh, (vi) Gurminder Singh, (vii) Gurvinder Singh and (viii) Lakhbir Singh, who had issued several experience certificates to the various candidates on their letter heads but had not maintained any record with regard to their attendance, salary, EPF, ESI, were also found to be involved in the commission of the offences in the present case. Accordingly, the aforesaid 8 persons were nominated as accused in the present case, vide DDR No. 14 dated 14.02.2023 and offence under Section 120-B of IPC was added to the FIR. Out of the aforesaid 8 A-Class contractors, 7 accused persons, except Daulat Ram, were arrested in the present case on 14.02.2023 and produced before the Trial Court on 15.02.2023 and their police remand was obtained from the Trial Court.

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During investigation, it was found that Ashwani Kumar (Petitioner) and his father Daulat Ram had issued 139 experience certificates without any corresponding record. The aforesaid A-Class contractors had issued 139 experience certificates to the candidates on their letter heads but had not maintained any record with regard to their attendance, salary, EPF, ESI. They were also found to be involved in the commission of the offences of the present FIR.

On 22.02.2023, a letter was received from the office of the Chief Engineer, HRD (Recruitment Branch), Patiala mentioning that during the verification process, experience Certificates of 13 candidates had been found to be forged and therefore, appointment letters had not been issued to them.

Further, the office of Chief Engineer (HRD) (Recruitment Branch) informed that National Apprenticeship Certificate of 36 candidates had been found to be forged. The candidates were considered not to be issued appointment letters, declaring them ineligible with the approval of Director HRD, Recruitment Section, Patiala. Accordingly, the said 36 candidates were nominated as accused in the present FIR on 22.02.2023.

Out of the aforesaid 94 nominated accused, 31 accused persons were arrested by the SIT. The police report under Section 173(2) of Cr.P.C. against 31 arrested accused persons has been presented to the competent Court on 24.02.2023. However, the charges have not been framed yet.

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3. The learned counsel for the petitioner contends that the allegation against the petitioner are that he had issued experience certificates to the candidates without any corresponding record on the basis of which a number of persons/accused had obtained employment as Assistant Linemen in the PSPCL. It is his contention that the petitioner is in custody since 14.02.2023, the report under Section 173 Cr.P.C. stands presented on 24.02.2023. None of the 38 prosecution witnesses had been examined so far. Since the petitioner was a first-time offender, he was entitled to the grant of bail, moreso, when the case was triable by the Court of a Magistrate and as many as 25 co-accused who had obtained appointment using the fake and forged experience Certificates had been granted bail.

4. The learned counsel for the State, on the other hand, contends that the nature of the allegations did not entitle the petitioner to the grant of bail. He had provided fake and fictitious experience certificates without any corresponding record to candidates who subsequently obtained Government employment. He, however, fairly concedes that the petitioner is a first-time offender, in custody since 14.02.2023, the investigation already stands completed and 25 co-accused have been granted the concession of bail.

5. I have heard the learned counsel for the parties.

6. This Court in the case of ***“Maninder Sharma versus State Tax Officer, State Tax, Mobile Wing, Jalandhar, Punjab, (CRM-M-24033-2021 decided on 31.08.2022)***, has held that broadly speaking (subject to any

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involving the IPC or Special Acts or cases triable by Magistrates once the investigation is complete, final report/complaint filed and the triple test is satisfied then denial of bail must be the exception rather than the rule”.

7. The veracity of the prosecution case against the petitioner shall be adjudicated upon during the course of the Trial. Admittedly, the petitioner is in custody since 14.02.2023. The investigation stands completed and the report under Section 173 Cr.P.C. already stands filed. None of the 38 prosecution witnesses have been examined so far. Therefore, the Trial of the case is not likely to be concluded anytime soon. Even otherwise, the case is Triable by the Court of a Magistrate. Therefore, the further incarceration of the petitioner is not required, moreso, when there is no apprehension of the petitioner tampering with the evidence or absconding from the Trial.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ashwani Kumar, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that he is not involved in any case other than the present one.

10 In addition, the petitioner (or through someone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with

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the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

May 09, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No