

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

CRM-M-22201-2023

Date of decision : 12.07.2023

NITESH AND ANR

....Petitioners

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Madhur Panwar, Advocate and
Mr. Aman Pal, Advocate for the petitioners.

Mr. Gaurav Bansal, DAG, Haryana.

PANKAJ JAIN, J. (ORAL)

Status report by way of an affidavit of Umed Singh, HPS, DSP
(HQ.) Kaithal has been filed on behalf of respondent-State today in Court.
The same is taken on record.

While issuing notice of motion, on 03.05.2023, the following
order was passed :

Prayer in the present petition, filed under Section 438 of the Code of Criminal Procedure, is for grant of anticipatory bail to the petitioners in case FIR No.433, dated 07.08.2021 (Annexure P-1), registered under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code, 1860, and Section 66 of the Information Technology (Amendment) Act, 2008 at Police Station Kaithal City, District Kaithal.

2. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the present case only on the basis of the disclosure statement of co-accused (Ankit Kumar) who was named in the present FIR. It is submitted that said Ankit Kumar has already been granted the concession of regular bail vide order dated 17.12.2022 (Annexure P-2) passed by learned

Additional Sessions Judge, Kaithal. It is stated that even though the petitioners were candidates in the said examination but they have no direct or indirect connection with the co-accused (Ankit Kumar). Learned counsel submits that no payment was made to the co-accused (Ankit Kumar) by the present petitioners for acquiring any question papers nor were they named in the present FIR. It is contended that co-accused (Rakesh Kumar) against whom similar allegations were averred in the same disclosure statement of Ankit Kumar (co-accused) has already been granted the concession of anticipatory bail vide orders dated 28.09.2022 and 23.02.2023 passed by this Court (Annexure P-4). It is further contended that about 212 persons were indicted in the present case by the police of which more than 40 persons have already been granted the concession of regular bail by learned Additional Sessions Judge, Kaithal and 15 co-accused have already been granted the concession of regular bail vide order dated 13.07.2022. Thereafter, several other co-accused persons have also been granted anticipatory bail by this Hon'ble Court. It is submitted that the petitioners are not involved in any other case and the bail application moved by the petitioners under Section 438 of the Code of Criminal Procedure Code, for grant of anticipatory bail has wrongly been dismissed by learned Additional Sessions Judge, Kaithal, vide its order dated 12.04.2023. It is also submitted that the petitioners are ready and willing to join investigation as and when required by the Investigating Agency or as directed by this Court or trial Court.

3. Notice of motion.

4. On the asking of the Court, Mr. Rupinder Singh Jhand, Addl. A.G., Haryana, who is present in the Court, accepts notice on behalf of the respondent/State.

5. Learned counsel appearing on behalf of the State opposes the petitioners' plea for bail on the ground of seriousness of the offence, however, it is not disputed that the petitioners are not named in the present FIR and they are not involved in any other case. It is also not disputed that other co-accused have been granted

bails. Learned State counsel seeks adjournment to file status report in this case.

6. List on 12.07.2023.

7. Without commenting anything on the merits of the case; in the event of arrest of the petitioners, they shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer. However, the petitioners shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.P.C.

8. A copy of the complete paper book be supplied to learned State counsel by the learned counsel for the petitioners during course of the day.

Today, Ld. State Counsel submits that though the petitioner has joined investigation but the mobile phone of petitioner No.1 is yet to be recovered.

Faced with the situation, counsel for the petitioners submits that the petitioners have been nominated on the disclosure statement made by one Ankit Kumar. Disclosure Statement is placed on record at Annexure P-3. The precise role alleged to have been attributed by Ankit Kumar reads as under :

“XXXXX

I have talked with my friend Nitesh Kumar son of Sukhbir Deshwal resident of Sulkha, Police station Babal, District Rewari, Mobile No.94382-52827 and his brother Dev son of Sukbir Deshwal resident of Sulkha, Police station Babal, District Rewari, who also had filled the form for the above job and their examination was to be held in Faridabad on 07-08-2021 and ready them to read out the above leak out paper in Rs.11,00,000 (Eleven lakh rupees only) per candidate. xxxxxxxxxxxxxxxx.

The candidate Nitesh and his brother Dev taught by me told

me that the same questions have come in the above said written paper which I had taught them from the leak-out paper. xxxxxx”

From the perusal thereof it is evident that the recovery of the mobile phone of the petitioner is inconsequential.

In the circumstances, the order dated 03.05.2023 is made absolute, subject to the conditions as enumerated under Sections 438(2) Cr.P.C.

The petition stands disposed off.

July 12, 2023
Dpr

(Pankaj Jain)
Judge

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