

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

I) CRM-M-34848-2022 (O&M)

Sandeep Kumar ... Petitioner

Versus

State of Haryana ... Respondent

II) CRM-M-20852-2022 (O&M)

Kulbir Singh ... Petitioner

Versus

State of Haryana ... Respondent

Date of Decision:-11.1.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Himmat Singh Deol, Advocate,
for the petitioner in CRM-M-34848-2022.

Mr. Vinod Ghai, Senior Advocate with
Mr. Pawan Kumar Hooda, Advocate,
for the petitioner in CRM-M-20852-2022.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J.(Oral)

1. This order shall dispose of the above mentioned two petitions filed on behalf of petitioners Sandeep Kumar and Kulbir Singh seeking grant of anticipatory bail in respect of a case registered vide FIR No.565, dated 4.10.2015, Police

Station Model Town, Rewari, District Rewari, under Sections 420, 468, 120-B of Indian Penal Code, Section 8 of Prevention of Corruption Act and Section 66 of Information Technology Act.

2. The allegations, in nutshell, are that on 4.10.2015, when a police party was patrolling near Shiv Chowk, Model Town, Rewari, then a secret information was received to the effect that 15/16 boys are present in various vehicles in front of BMG Mall and they were having question papers for recruitment test for the post of PRT Teacher, Kendriya Vidyalaya, Delhi, Constable in Assam Rifle and SSC examination and were selling the same to candidates for hefty amounts. Pursuant to receipt of said information a raid was conducted and 5 vehicles were found at the spot. While 6/7 persons managed to escape but the others were arrested at the spot. Investigation was conducted during the course of which accused Vijay Kumar and Jitender disclosed the involvement of the petitioner Kulbir Singh (in CRM-M-20852-2022). Upon arrest of Kulbir Singh, he further disclosed that the petitioner Sandeep Kumar (in CRM-M-34848-2022) was also associated.
3. At the time of issuance of notice of motion in CRM-M-20852-2022, the following order was passed on 10.6.2022:

“Status report by way of affidavit of Amit Bhatia, HPS, Deputy Superintendent of Police, Rewari, District Rewari on behalf of respondent-State has been filed. The same is taken on record.

Learned counsel for the petitioner *inter alia* contends that the petitioner was named in the disclosure statement suffered by Vijay Kumar and Jitender. The said disclosure statement was made part of report filed under Section 173 Cr.P.C. under which the said persons Vijay Kumar and Jitender faced trial. Though the disclosure statements were part of the report, yet the petitioner

was not put in any of the columns in the said report. No application during the trial was moved to summon the petitioner under Section 319 Cr.P.C. The said trial has finally culminated in the order of acquittal, whereby all the accused persons including Vijay Kumar and Jitender stand acquitted and now under the same FIR, the petitioner apprehends arrest.

Counsel for the respondent is not in a position to controvert the factual position.

Keeping in view the aforesaid facts that the FIR under which the petitioner apprehends arrest has already culminated in the order of acquittal and the petitioner was neither named in report under Section 173 Cr.P.C. nor ever summoned by the trial Court under Section 319 Cr.P.C., the petitioner is found to be entitled for interim protection.

List on 25.07.2022.

In the meantime, in the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the arresting officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.”

4. Even in the other case i.e. in CRM-M-34848-2022 the order was passed to a similar effect on 6.8.2022.
5. It has been informed by learned State counsel that pursuant to interim directions the petitioners have joined investigation. Learned State counsel has, however, informed that the petitioners are not cooperating inasmuch they have not disclosed the sources from which they had procured the question papers.
6. This Court has considered the rival submissions.

7. It is not in dispute that 16 of the co-accused were tried by the Trial Court and have since been acquitted. The petitioners are stated to have joined investigation. Though the learned State counsel, while opposing the petition, has submitted that the petitioners have not disclosed the sources from where they have procured the question papers, but having regard to the fact that co-accused have already been acquitted, the petitioners cannot be forced to make a statement as regards the sources from which the question papers have been procured as the same would virtually amount to confession on their part when infact no such thing may have ever happened.
8. Having regard to the facts and circumstances of the case and the fact that the petitioners otherwise have a clean record, both the petitions are accepted and the interim directions issued by this Court vide order dated 6.8.2022 (passed in CRM-M-34848-2022) and order dated 10.6.2022 (passed in CRM-M-20852-2022) are hereby made absolute, subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438(2) Cr.P.C.
9. A photocopy of this order be placed on the file of connected case.

11.1.2023

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No