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

**CRM-M-30951-2024
CRM-M-31463-2024 and
CRM-M-31481-2024**
Reserved on: 15.07.2024
Pronounced on: 23.07.2024

Rohitash Singh Yadav ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Bipan Ghai, Sr. Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Prabhdeep S. Bindra, Advocate
for the petitioner.

Mr. Rajat Gautam, Addl. AG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections	In
18	01.05.2024	Anti Corruption Bureau, District Gurugram	409, 420, 465, 467, 471, 201, 120B IPC and 13 of PC Act	CRM-M-30951-2024
19	01.05.2024	Anti Corruption Bureau, District Gurugram	409, 420, 465, 467, 471, 201, 120B IPC and 13 of PC Act	CRM-M-31463-2024
20	01.05.2024	Anti Corruption Bureau, District Gurugram	409, 420, 465, 467, 471, 201, 120B IPC and 13 of PC Act	CRM-M-31481-2024

All these three FIRs relate to the similar allegations against Rohitash Singh Yadav, pertaining to different financial years, as such, they are being disposed of together and the reply filed in the first petition i.e. CRM-M-30951-2024 is being referred to for prosecution’s version.

1. The petitioner, who owns/controls Rohitash Degree College, Mahendergarh, Haryana, in connivance with the other accused and some Government officials, in the years 2014-2018, allegedly prepared fake scholarship award rolls for the post-matriculation scholarship scheme to uplift students belonging to the Scheduled Castes and Backward Classes, duping the Government for more than Rs. Ten Crores, apprehending arrest in the FIRs captioned above, has come up before this Court under Section 438 CrPC seeking anticipatory bail.

2. In the bail petitions, the accused declare that he has no criminal antecedents except these three connected FIRs.

3. The general contention of the petitioner(s) is that the custodial investigation is neither required nor would serve any purpose whatsoever, and the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

4. The State's counsel opposes the bail and states that considering the allegations, the petitioners' custodial interrogation is necessary.

5. The petitioner-Rohitash Singh Yadav was chairperson of Smt. Sarati Devi, Educational Charitable Trust (Regd.), Ateli Mandi and the Society runs a college in the name of Rohitash Degree College and Rohitash College of Management, Ateli Mandi. The Government of Haryana provides scholarships to the students belonging to Scheduled Caste and Backward class for their upliftment. The scholarship is paid in two parts. One share goes to the institute/college in the shape of fees and other portion is paid directly in the bank accounts through benefit transfer.

6. The complaints were received regarding misappropriation of scholarships by the petitioner and his accomplices regarding the scholarship for the year 2014-15. After that the Director Higher Education filed a complaint to Anti Corruption Bureau. After that FIR No.397 dated 18.08.2018 was registered and subsequently another FIRs 440 of 2020 was registered for more misappropriation pertaining to the year 2018-19, 2019-20 & 2020-21 in Panchkula. The persona who was pointed out as accused in the said FIRs was one Clerk working in Rohitash Degree College and Management College who was found to be resident of Bhutan and was untraced, as such, FIRs were also declared untraced due to non-availability of such Clerk.

7. However, Vigilance Department conducted a preliminary enquiry on 29.06.2021 at Narnaul, which was approved by the State Government on 25.06.2021. After that Chief Secretary, Government of Haryana, Vigilance Department directed the Director General State Vigilance Bureau, (now Anti Corruption Bureau), Haryana to conduct the preliminary enquiry and based on this, enquiry No.01 dated 09.06.2022 was registered in the office of Director General State Anti Corruption Bureau.

8. The prosecution's case is being taken from reply dated 05.07.2024 filed by the concerned Deputy Superintendent, Anti Corruption Bureau, Gurugram (in CRM-M-30951-2024), which reads as follows:-

> *"The Rohitash Degree College and Rohitash College of Management Ateli Mahendergarh had prepared fake scholarship award rolls for Post Matric*

Scholarship Scheme in the year 2014-18 for Scheduled Caste and Backward Class students and the same were sent to the Directorate of Higher Education Haryana Panchkula in connivance with unknown employees thereby causing a huge loss to the extent of Rs 10,35,17,000/- by misappropriating the scholarship money which was given by Directorate of Higher Education Haryana. (Award Roll is annexed as Annexure R-1).

5. That after perusing the statements of witnesses record and as per the SIT report and as well as audit report obtained in the preliminary enquiry it was found that the Government of India provided financial assistance under the Post Matric Scholarship Scheme to the students of Scheduled Caste and Backward Class communities for pursuing higher education, The Department of Higher Education is responsible for scrutinizing all the documents submitted by the students approving the claim of the actual beneficiary and paying the scholarship in case of under graduate and post graduate courses in Arts, Science Commerce and Management.

6. That the Department of Higher Education has to make the PMS payment for each student in two parts 1 directly to the college/ institution in the form of management share fees ND and through Direct Benefit Transfer (DBT) into the bank account of the students as they are linked to the Aadhaar number as maintenance allowance. Petitioner Rohitash the Chairman of Shri Mati Sarti Devi Educational Charitable Trust regd) Ateli Mandi has opened Rohitash Decree College and Rohitash Institute of Management Ateli.

7. That in Rohitash Degree College students of B.A., B.SC, B. Com, M.A., M.SC, M. Com course are admitted and in Rohitash Institute of Management Ateli admissions of management related courses M.B.A., and M.C.A., are done The Rohitash Degree College and Rohitash Institute of Management Ateli was recognized with Maharshi Dayanand University Rohtak during the years 2014 to 2017 and during the year 2017-18 it was recognized with Indira Gandhi University Meerpur, District Rewari.

8. That Rohitash Degree College and Rohitash Institute of Management prepared and sent scholarship award rolls of Scheduled Caste and Backward Class students to the Director of Higher Education Haryana Panchkula in the year 2014-18 under the Post Metric Scholarship Scheme.

9. That the management share i.e. Rs10,35,17,000 was deposited by the scholarship branch of the Directorate of Higher Education Haryana in the account of Rohitash Degree College and Rohitash Institute of Management When Kuldeep Singh, Deputy Scholarship Branch, posted in the Directorate of Higher Education Panchkula came to know about this on 20.06.2018, then SIT was formed to investigate and examine the records of Rohitash Degree College and Rohitash Institute of Management regarding payments of scholarship to scheduled caste and backward class students under the Post Metric Scholarship Scheme in the year 2014-18 paid by Director of Higher Education Panchkula.

10. That according to the audit report of the Departmental SIT of Higher Education Department Panchkula and Principal Accountant General, Audit, Haryana for the period from 04/2014 to 03/2018 it has been found that while preparing the cash book by the scholarship branch of Directorate of Higher Education, Haryana, Panchkula proper entries were not made in the books. The entries in the cash book do not indicate the name of the college to which the payment has been made Cash Bills, Vouchers, award rolls of colleges have also not been shown as per the entries made in the book. During the inspection/Audit, due to disorganized cash book records, it was made impossible to know what payments were made by the scholarship branch and that how much amount was disbursed to the students and they were from No which college the records have also not shown income certificates."

9. I have heard counsel for the parties and gone through the record.

10. Mr. Bipan Ghai, Sr. Advocate submits that the FIRs which were registered initially against the clerk, were closed and untraced and now FIRs cannot be registered.

11. Mr. Rajat Gautam, Addl. AG, Haryana, submits that at that time the petitioner has mislead the Investigating Agency by naming his Clerk who was resident of Bhutan and has saved himself in connivance with officials. Later on detailed inquiry was conducted which found the petitioner's involvement.

12. An analysis of the above said argument would clearly point out that the petitioner was not named in the earlier FIR which was against Clerk of the College and untraced report was filed, therefore it cannot be a Bar to conduct further investigation under Section 337 of Bharatiya Nagarik Suraksha Sanhita 2023. Therefore the petitioner is not entitled to bail on this ground.

13. Mr. Bipan Ghai's next argument is that as per rules, students themselves used to fill the Performa online for obtaining benefit of post matric scholarship of schedule caste and other backward classes, and college had nothing to do with the filling up of these forms and availing the said benefits which was directly done by the students themselves. He further submits that thereafter, it was the bounden duty of the officials of the Director Higher Education to compare their names as per the admission record because the student has to apply directly on the portal of Director Higher Education for the admission in the Degree College as well as in the Management Institute for pursuing MBA and other degrees. It is also submitted that as per the application filled on the portal along with the documents, the Director Higher Education allotted the seat to the student as per their choice and on merit basis and the list of those students allotted to the particular institute for admission, the same be sent to the particular institute and the names were registered as per the registration number by DHE and it was the duty of

the officials of higher education to send the registration number along with their names and category to the concerned universities. So, in this procedure, the degree college as well as the management college was not having any role for their admission and the documents uploaded on the portal by the students has to be checked by them and it was not the duty of institute itself. In this way, as per the above procedure of admission, the institute was not having any role. So, the institute was not having any opportunity to prepare the fake list of students and their category etc.

14. To these arguments, State counsel Mr. Rajat Gautam, contended that petitioner is extremely shrewd person and on 26.07.2018, he had visited the police station Ateli and had filed an application before the SHO that a fire incident took place in Rohitash International School, Rohitash Institute of Management, Rohitash Polytechnic and Roshitash Degree College, where all record was burnt and the cause of fire was short-circuit and accordingly DDR No.21 was registered on 26.07.2018. State counsel further submits that occurrence of fire which lead to burning of record clearly points the destruction of evidence and would prove malicious intent. He further submits that when the incident took place, at that time, Department was searching proofs for the scam and fire was not a co-incident but was engineered by the petitioner for his accomplices to conceal evidence. Now the investigation points out that fire was pre-planned. State counsel further submits that despite the record being fired, there is sufficient evidence pointing towards petitioner's involvement and referred to following portion of the reply, which reads as under:-

> *"That it can be said that the fire incident that occurred at the above mentioned institution was pre planned and has been done knowingly. According to the audit report and SIT report it was found that during the period from 04/2014 to 03/2018 a total of 3680 Scheduled Caste/ Backward Class No and other category students of Rohitash Degree College and Management College Ateli were enrolled under the Post Matric Scholarship Scheme. That 3680 Scholarship award rolls were sent to the higher education department out of which 2549 students were not registered by the universities and Scholarship awards of 304 Scheduled Caste /Backward Class students were sent whereas they were found to be of General category. Regarding the 550 students for whom Rs 1.77 Crore were paid to the said colleges the above said amount does not tally with the university registration data and the award rolls of all the 550 students were not matching with the courses mentioned in the college records.*
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> *14. That only 277 students to whom the Rs 7.98 Lakh ruppes were disbursed were matching with the registration record of the universities. The disbursement of Maintenance allowance amounting to Rs 65.16 Lakh for 1342 students of Rohitash Degree College Ateli and Rohitash Institute of Management Ateli through DBT had failed and even then also the*

Scholarship branch of the Higher Education Department merged to disburse the said amount to the Colleges.

15. That as the transfer of the scholarship maintenance amount failed twice and did not get transferred in the accounts of students then said amount should have been deposited back in the accounts of the department. But even after three unsuccessful attempts the said amount was not deposited in the account of the department in violation of the orders of Finance Department.

16. That by hatching a criminal conspiracy by Rohitash Degree College, Rohitash Management College Ateli Chairmen Petitioner Rohitash Singh, Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendragarh and college administration and unknown officers employees of Scholarship Branch of Directorate of Higher Education Department, in collusion with the employees and misusing their position, embezzled the amount by paying the said amount to the colleges only Whereas after failure of DBT transfer the department should have become alert on the issue against these students and the fees of these students as well as Management share should also have been investigated.

17. That during the preliminary enquiry on 26.08.2022 a correspondence was made by the then investigating officer to the Director, Higher Education Department, Haryana Panchkula to obtain the records was in complete regarding the allegation. However the record and was not in order thereafter. On dated 27.12.2023 inquiry officer visited the office of the Scholarship branch of Higher Education Department, Panchkula personally but the Deputy Director and other concerned assistants clerks were unable to provide complete records and they were not in a position to help the investigation officer.

18. That on 11.01.2024 investigating officer has written a letter to the Principal of Rohitash Management College and Rohitash Degree College. In this regard the Principal of Rohitash Management College and Rohitash Degree College sent a letter dated 11.01.2024 and gave are explanation that the required record had been burnt in the fire incident and did not provide any record. In this regard the investigating officer has telephonically contacted the Chairman of aforesaid colleges namely petitioner Rohitash Singh and asked him to provide requisite records but the petitioner Rohitash Singh had also disclosed that the aforesaid record has been burnt in a fire incident. It appears that in order to hide the embezzlement the petitioner did not provide the required records nor did he cooperate in the enquiry.

19. That during the enquiry it was further revealed that Rohitash Degree College and Rohitash Management College in the session year 2014-15 has been preparing fake scholarship awards and Rolls and sent the same to the Higher Education Department, Haryana. The scholarship rolls of Scheduled Caste and other backward class sent by the Rohitash Degree College and Rohitash Management College were to be verified by the branch of Higher Education The scholarship amount of these students should have been approved only after verifying the scholarship award roll *of the students but in the year 2014-15 the scholarship branch of the Higher Education by misusing their position and in connivance with Rohitash Degree College and Rohitash Management College sanctioned the amount for fake students without verifying their scholarship award rolls and directly transferred the amount to the above fake students by deposing money in the accounts of both the above colleges of petitioner and it was recommended that a case is to be registered 409, 420, 465, 467,471, 201 and 120B of IPC and 13 PC Act (Before amendment) Under the above sections against the unknown officers employees of the scholarship branch of the Directorate of Higher Education Department, against Rohitash Degree College, Chairman of Rohitash Management College, Ateli. Rohitash Singh Smt Srti Devi Educational Charitable Trust (Regd), Ateli Mandi, Mahendergarh and offcers of the college administration.*

20. That the final report of the investigating officer was sent to the higher authorities with recommendation to register a criminal case on 02.02.2024. It was sent to The Director General Anti Corruption Bureau Haryana Panchkula According to the letter No 6082/1-2 dated 20.02.2024 from the office of The Director General Anti Corruption Bureau Panchkula the final report of preliminary investigation has been approved vide 8787/1-2/ACB(H) Dated 10.04.2024 The act of the above accused is Ex-Facie Criminal in Nature hence no permission under section 17A Prevention of Corruption Act 1988 is required as per directions issued by the Chief Secretary Office letter No 4/2/2021/1 VII dated 26.07.2022.

21. That thereafter the present FIR was registered against unknown officers and employees of the correspondence branch of the Directorate of Higher Education Department Rohitash Singh Chairman of Rohitash Degree College Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh and Officers employees of the college administration for offences under sections 409 420 465 467, 471 201 120B IPC and 13 PC Act 1988.

22. That thereafter the investigation of the present case was put in motion and it was revered that petitioner Rohtash was chairman cum owner of the Rohitash Degree College Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh and co accused Veena who is wife of petitioner Rohtash singh is secretary cum principal of both the above college and during the course of investigation on 01.05.2024 the records pertaining to Rohitash Degree College Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust Ateli (Regd) Mandi Mahendergarh for the year 2014-15 of the students NO from the registration branch of MD University Rohtak Were taken in possession.

23. That during the investigation on 02.05.2014 member of special Investigation Team of the Directorate of Higer Education department were Joined into the investigation and their report was taken into possession.

24. That during the investigation on 03.05.2024 a notice under section 91 CrPC was given to State Bank of India, branch Sec 8, Panchkula with regard to account No. 65759048846 and 65159989362 thereafter statement of bank account No. Pertaining to Rohitash Degree College

Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh 30130200000418, 30130200000469 and 301302000000373.

25. That thereafter record pertaining to scholarship of Rohitash Degree College and Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh were taken in possession from higher Education department. Which shows that above both colleges used to send a false report that the amount was disbursed in the accounts of the students and (the copy of report is annexed as Annexure R-2).

26. That it is pertinent to mention here that on the said preliminary enquiry three FIRs were lodged and the present FIR pertains to embezzlement caused in the year 2014-15 and FIR No. 19 Dated 01.05.2024 under section 13 of PC Act 1988 and 409,420,465,467,471,201,120B IPC pertains to embezzlement caused in the year 2015-16 however during the course of investigation of FIR No. 20 Dated 01.05.2024 under section 13 of PC Act 1988 and 409,420,465,467,471,201,120B the premises of Rohitash Degree College and Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh were searched on 18.05.2024 and during the search,s records pertaining to session 2013-14 to 2017-18 were seized. It is pertinent to mention here that petitioner during the preliminary enquiry had stated that all records up to 2018 had been brunt in the fire incident on 26.07.2018 and in this regard he also got registered DDR No. 23 Dated 26.07.2018 at PS Ateli Mahender garh. This shows the dishonest intension of the Petitioner Rohtash and his wife co accused Veena Yadav.

27. That during the course of investigation on examination of the above documents it was found that the trustees of above institute (petitioner Rohtash Singh and co accused Veena Yadav(wife of petitioner) in connivance with their employee and officials/officers of higher education department after hatching a criminal conspiracy prepared forged, fabricated documents i.e. Adhar Card Bank accounts and siphoned of the government money amounting Rs. NO 2,58,59,200 during the session 2014-15 by means of corruption and caused huge loss to the state exchequer and caused gain to themselves.

28. That during the course of investigation it was revealed that the said amount of Rs. 2,58,59,200/- was transferred directly to the accounts of the students but the amount was not credited in the accounts of students as the accounts were fake hence the concerned bank had sent the amount back to the higher education branch Panchkula.

29. That it is pertinent to mention here that authorities of higher education department directed the bank to deposit the said amount in the accounts of Rohitash Degree College and Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Ateli (Regd) Trust Mandi Mahendergarh. (the copy of authority letter is annexed as Annexure R-3)

30. That it is pertinent to mention here that the said amount 2,58,59,200/- was transferred in the account No. 30130200000418, 65159048846 and 30130200000469 which pertains to Rohitash Degree College and Rohitash Management College Ateli Smt Sarti Devi Educational Charitable Trust (Regd) Ateli Mandi Mahendergarh. Further it *is pertinent to mention here that the said amount was not disbursed in the accounts of students and used by petitioner himself. (the copy of bank record is enclosed as Annexure R-4).*

31. That during the course of investigation it was also revealed that co accused Veena Yadav wife of petitioner had prepared a award roll and the same was sent to the Director Higer Education Department, Haryana Panchkula for scholarship.

32. That from the above award roll in which the names of students and their address were verified and it was found that no such persons were existing on the given address. (The verification report is annexed as Annexure R-5).

33. That it is also pertinent to mention here that in the enquiry also it was revealed that one account has been mentioned against name of many students and some accounts were not found available with the banks. Further it is pertinent to mention here that on the said preliminary enquiry three FIRs were logged and the present FIR pertains to embezzlement caused in the year 2014-15 and FIR No. 19 Dated 01.05.2024 under section 13 of PC Act 1988 and 409,420,465,467,471,201,120B IPC pertains to embezzlement caused in the year 2015-16 however during the course of FIR No. 20 Dated 01.05.2024 under section 13 of PC Act 1988 and 409,420,465,467,471,201,120B IPC it was revealed reveals that The bank account bearing No. 617500021 to 617500138 in respect of admissions for the year 2016-2017 have been found invalid. The Branch Manager of Canara Bank in FIR No.20 dated 01.05.2024 submitted his report on the notice under Section 91 Cr.P.C. that the above mentioned account numbers are invalid. The account numbers of their bank is of 13 digits. One bank account of Canara Bank bearing No. 617500021 has been shown as against the names of nine students. This fact is clearly proved the reply of the bank dated 16.05.2024 send in the response to the letter date 15.05.2024 of the investigating officer copy and reply to the letter are attached as (Annexure-6 and 7).

34. From the Perusal of letter dt. 16.05.2024. It is also got established that the amount has been wrongly transferred by the Director Higher Education Haryana, Panchkula in Account of the Rohtas Degree College & Rohtas Management College A/c no. 30130200000469,30130200000418. The bank has furnished the details in response to the notice dt. 3.05.2024 of the I/O. The copy of the seizure memo attached as (Annexure 8)"

15. An analysis of the above said arguments clearly points out that the petitioner in connivance with the other staff of college and society and in connivance with other government officials misappropriated the scholarship which was for ear-marked students belonging to Scheduled Caste and Backward Class. There is sufficient evidence which connects the petitioner with the commission of offence. It would be appropriate to refer to the relevant portion of the reply, which is filed on the directions of this Court and the same reads as follows:-

"The role of the petitioner

That the petitioner Rohtash singh chairman cum owner of the Rohitash Degree College and Rohitash Management College in the session year 2014-15 had prepared fake scholarship awards and Rolls and sent the same to the Higher Education Department, Haryana. The scholarship rolls of Scheduled Caste and other backward class sent by the Rohitash Degree College and Rohitash Management College were to be verified by the branch of Higher Education The scholarship amount of these students should have been approved only after verifying the scholarship award roll of the students But in the year 2014-15 the scholarship branch of the Higher Education by misusing their position and in connivance with Rohitash Degree College and Rohitash Management College sanctioned the amount of fake students without verifying their scholarship award rolls and directly transferred the amount to the above fake students by depositing the money in the accounts of both the above colleges of petitioner and it was recommended that a case is to be registered 409, 420, 465, 467,471, 201 and 120B of IPC and 13 PC Act (Before amendment) Under the above sections unknown officers and employees of the scholarship branch of the Directorate of Higher Education Department, against Rohitash Degree College, Chairman of Rohitash Management College, Ateli. Rohitash Singh Smt Srti Devi Educational Charitable Trust (Regd), Ateli Mandi, Mahendergarh and officers of the college administration.

B The evidence against the petitioner.

That according to the audit report and SIT report it was found that during the period from 04/2014 to 03/2018 a total of students 3680 Scheduled Caste/ Backward Class and other category students of Rohitash Degree College and Management College Ateli were enrolled under the Post Matric Scholarship Scheme. That total 3680 Scholarship award rolls were sent out of which 2549 students were not registered by the universities. Scholarship awards of 304 Scheduled Caste /Backward Class students were sent whereas they were found to be of General category. Regarding the 550 students for whom Rs 1.77 Crore were paid to the said colleges, the above said amount does not tally with the data of university registration and the award rolls of all the 550 students were not matching with the courses mentioned in the college records. Further only 277 students to whom the Rs 7.98 Lakh ruppes were disbursed were matching with the registration record of the universities. The disbursement of Maintenance allowance amounting to Rs 65.16 Lakh for 1342 students of Rohitash Degree College Ateli and Rohitash Institute of Management Ateli through DBT had failed and even then the Scholarship branch of the Higher Education Department disbursed the said amount to the Colleges.

C In case of dismissal of this petition, would the police arrest the petitioner in this FIR, and do they need the accused's police custody?.

That the custodial interrogation of the petitioner is very much essential to unearth the involvement of the officials of higher education department and other officials who were involved in creating the forged documents and to recover the amount.

16. Prima facie analysis of the above said arguments clearly points towards petitioner's involvement. It would also be appropriate at this stage to refer to the order dated 06.06.2024 passed by the Sessions Judge, Narnaul, vide which the petitioner's

anticipatory bail was dismissed and the trial Court also perused the investigation file. Relevant portion of the said order reads as follows:-

> *"This Court has examined the police file. The bank account bearing No.617500021 to 617500138 in respect of admissions for the year 2016-17 have been found invalid. The Branch Manager of Canara Bank in FIR No.20 dated 01.05.2024 submitted his report on the notice under Section 91 CrPC that the above mentioned account numbers are invalid. The account numbers of their bank is of 13 digits. One bank account of Bank of Baroda bearing No.617500021 has been shown as against the names of nine students."*

17. Overall analysis of the petition, reply and other arguments, point towards petitioner's involvement in duping the students belonging to Scheduled Caste and Backward Class, by siphoning their scholarship in connivance with corrupt government officials. Thus, the petitioner is not entitled to anticipatory bail.

18. Based on the constitutional principles, the Central Government as well as State Government are taking affirmative actions to uplift the people belonging to Scheduled Caste, Scheduled Tribes and Backward Class to provide them plain field keeping in view millennium old caste based discrimination. If any person belonging to the categories of Scheduled Caste and Scheduled Tribe or other backward classes tries to take undue benefit of such schemes or siphons of any funds meant for social upliftment, it is an interference in the efforts of people of India to bring equality at all levels. The legal yardsticks for granting bail for such person cannot be same as that of for other first offenders/people or people with other allegations of corruption. The social objective of grant of benefits would certainly lose its purpose if such amount is siphoned in the midway which makes the crime grave and extreme and secondly even in such case grant of bail would also be at a different pedestal.

19. After considering the preliminary evidence and the social objective there is sufficient evidence connecting the petitioner with commission of offence and does not deserve discretion of anticipatory bail.

20. In Sumitha Pradeep v Arun Kumar CK, 2022 SCC OnLine SC 1529, Supreme Court holds,

> [16]. … We have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of

> the accused may not be required, but that does not mean that the prima facie case against the accused should be anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

21. In State of Gujarat v. Mohanlal Jitamalji Porwal (1987) 2 SCC 364, Supreme Court holds,

> [5]. ....The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest....."

22. In State rep. by CBI v. Anil Sharma, (1997) 7 SCC 187, Supreme Court holds,

> [6]. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favourable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.

23. In Jai Prakash Singh v. State of Bihar and another (2012) 4 SCC 379, Supreme Court holds,

> [19]. Parameters for grant of anticipatory bail in a serious offence are required to be satisfied and further while granting such relief, the court must record the reasons therefor. Anticipatory bail can be granted only in exceptional circumstances where the court is prima facie of the view that the applicant has falsely been enroped in the crime and would not misuse his liberty. [See D.K. Ganesh Babu v. P.T. Manokaran (2007) 4 SCC 434, State of Maharashtra v. Mohd. Sajid Husain Mohd. S. Husain (2008) 1 SCC 213 and Union of India

> v. Padam Narain Aggarwal (2008) 13 SCC 305].

24. In Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, Supreme Court holds,

> [34]. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.
> [35]. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations.

25. In <u>P. Chidambaram v. Directorate of Enforcement</u>, 2019 9 SCC 24, Supreme Court holds,

> [70]. We are conscious of the fact that the legislative intent behind the introduction of Section 438 Cr.P.C., 1973 is to safeguard the individual's personal liberty and to protect him from the possibility of being humiliated and from being subjected to unnecessary police custody. However, the court must also keep in view that a criminal offence is not just an offence against an individual, rather the larger societal interest is at stake. Therefore, a delicate balance is required to be established between the two rights - safeguarding the personal liberty of an individual and the societal interest. It cannot be said that refusal to grant anticipatory bail would amount to denial of the rights conferred upon the appellant under Article 21 of the Constitution of India.

26. In <u>Central Bureau of Investigation v. Santosh Karnani</u>, Cr.A 1148 of 2023, dated 17-04- 2023, Supreme Court, in an FIR registered under sections under Sections 7, 13(1) and 13(2) of the Prevention of Corruption Act, 1988, holds,

> [24]. The time−tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.

> [31]. The nature and gravity of the alleged offence should have been kept in mind by the High Court. Corruption poses a serious threat to our society and must be dealt with iron hands. It not only leads to abysmal loss to the public exchequer but also tramples good governance. The common man stands deprived of the benefits percolating under social welfare schemes and is the worst hit. It is aptly said, "Corruption is a tree whose branches are of an unmeasurable length; they spread everywhere; and the dew that drops from thence, Hath infected some chairs and stools of authority." Hence, the need to be extra conscious.

27. In the background of the allegations and the light of the judicial precedents mentioned above in the facts and circumstances peculiar to this case, the petitioner fails to make a case for anticipatory bail.

28. Any observation made hereinabove is neither an expression of opinion on the case's merits, nor the court taking up regular bail nor the trial Court shall advert to these comments.

Petition dismissed. Interim order dated 02.07.2024 stands vacated. All pending applications, if any, also stand disposed of.

(ANOOP CHITKARA)
JUDGE

23.07.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: YES