IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Date of Decision:-22.02.2024

CRM-M-61211-2023

Pankaj.

......Petitioner.

Vs.

State of Haryana.

......Respondent.

AND

CRM-M-61403-2023

Harender Kumar.

......Petitioner.

Vs.

State of Haryana.

......Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Vikram Singh, Advocate for the Petitioners (in both cases).

Mr. Ravish Kaushik, Additional Advocate General, Haryana.

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JASJIT SINGH BEDI, J.(ORAL)

By this common order I shall dispose of both the aforementioned petitions as the same have arisen out of one and the same FIR.

The prayer in these petitions under Section 438 Cr.PC is for the grant of anticipatory bail in case FIR No.298 dated 06.10.2021 under Sections 419, 420, 120-B, 201 IPC and Section 66-C, 66-D of IT Act

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registered at Police Station Sector 13-17, District Panipat.

2. The present FIR came to be registered at the instance of ASI Promed Kumar which reads as under:-

> " *To SHO, Sector 13/17, District Panipat, Sir, one letter no. 2248/SEC dated 02.10.2021 is received for enquiry. That regarding the above numbered letter, enquiry was conducted by me and during enquiry, relevant information was gathered. From confidential and reliable information, it has been found that Ashok alias Shoki son of Randhir resident of Gorad District Sonepat, Monu son of Karmbir resident of Gorad District Sonepat, Ashish son of Narendra resident of Gorad District Sonepat, Gauri son of Dilawar resident of Kandla District Dosa Rajasthan, Akash son of Ramswarup Gurjar resident of Moti Nagar Jaipur, Ashish son of Roop Singh resident of Shyamla Kalan (Ramkali), Akash son of Ram Pratap Gaur resident of Jaipur take huge amounts from students / candidates in lieu of passing them in online exams pertaining to Government jobs or IIT and other entrance exams pertaining to Center and other states and such wrongdoings are conducted by Ashok alias Shoki, Monu, Ashish, Gauri, Akash, Ashish and Akash together and from confidential information it has been observed that Ashok alias Shoki and his other accomplices have setup a lab in Asia Pacific Institute of Information Technology (APIIT) Panipat. That Ashok alias Shoki and other colleagues together fraudulently pass candidates / students in examinations by using hacking software tools on servers installed at examination centers situated at (APIIT) Panipat and other places. That Ashok alias Shoki and his accomplices take huge amounts from candidates students in lieu of passing them and it is anticipated that along with Ashok alias Shoki, Monu, Ashish, Gauri, Akash, Ashish and Akash, their other accomplices are also involved with them in the said wrong doings. For doing these fraudulent activities, they have established labs at several other places and they give allurement to the students / candidates and they take huge amounts from them. By doing such acts, Ashok alias Shoki and his other accomplices have amassed lot of wealth in form of moveable and immoveable properties. Therefore, if case is registered against them and investigation is conducted then huge gang can be revealed and apprehended. In this regard, it is found that Ashok alias Shoki and*

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others have committed offences under sections 419/420/120B IPC & 66C, D of IT Act. That Ct. Naveen was sending for registrasion of case. After registration of FIR for Further enquiry. Sd- ASI Paromed Kumar."

3. During investigation, on 07.10.2021, accused Ashok @ Shoki son of Ranbir, Monu Kumar son of Karambir and Ashish son of Narender were joined in the investigation and were arrested in the instant case and their mobile phones were recovered and taken into possession. On interrogation. they suffered their respective disclosure statements and admitted their guilt. In his disclosure statement, accused Ashok @ Shoki disclosed that he, Monu @ Doctor son of Karambir, Narveer son of Devender, brother of Narveer namely Udham Singh, aunt's son of Narveer namely Paramjit, friends of Narveer namely Sachin, Deepak Yadav, Vinesh Lakra son of Ram Bhagat, Sandeep Dahiya Sandy son of Ram Chander, Robin Khokhar, Kapil Dahiya. Rakesh @ Raka, Sudeep @ Situ, Jitender Jitu, Raj Tewatia, Ajay Joon, Vikas Deep Dahiya, friend of Vikas Deep Dahiya namely Naveen Dahiya. Meetu, Parveen Tyagi, Tushar, Manoj, Harender (petitioner in CRM-M-61403-2023), Ashish son of Narender, Jai Bhagwan, Pankaj (petitioner in CRM-M-61211-2023), friend of Jai Bhagwan namely Mukesh, Anil Pandit, Devender Jaglan, Sunil Kaushik. Yogender Sunda son of Mahender, Satish, Amit Lathwal, Naveen Pandit, Harpal, Harbir, Dharmender, Jaibir, Lala. Maharaj, Manoj Monu, Sandeep Malik, Bholia, Ranjit resident of Banglore, Akshay Lakra, Gauri, Ashish resident of Ram Kall, Aakash Kumar, Aakash Gaur, Shamsher resident of Gorar, Akshay resident of Jahri, Ajit resident of Kharkhoda, Sandeep Master Ganaur, Ashwani Soni, Manjit resident of Gorar, Ravinder Bittu, Vijay Master Katwal, Sushil Hooda Chhota resident of village Assan, Jitender

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Siwach, Bijender Singh, Ravi Tomar, Sonu Tomar, Jitender Tiwari, Dhananjay and their other accomplices had received huge amounts from the candidates for securing jobs for them to be recruited through SSC CHSL, SSC CGL, SSC MTS, RPF, Railway Group-D. Railway JE, SSC GD. Postman, Indian Air Force, DSSB, Indian Navy, Rajasthan Electricity Department, Delhi Forest Guard, Banking, CSIR. PGI, ICMR. CRP PO Recruitment, RBI Attendant Exam, ICAR UG Exam, AIIMS and also got money from the students for securing their entrance in the examinations relating to UGC Net, GATE, JEE Mains. He further disclosed that they used to establish laboratories for conducting online and off-line examinations by taking the premises at different place on rent. They used to get examination centres in their labs by contacting renowned companies like TCS, SAI Educare Pvt. Ltd., Ginger Web Pvt. Ltd. and IIT, AIIMS, Gate etc. and during investigation, they used to upload the software in their computer systems and used to hack the software i.e. ILEON of TCS company and during examination used to get access to the computer of the examinee by remote access and thereafter, their solvers present outside the examination centres namely Naveen Dahiya, Naveen Pandit, Vikas Dahiya, Sandeep Sandy resident of village Sisana and the IT Heads namely Jai Bhagwan, Mukesh and Harbir used to get remote access of the computer/screen of the examinee and thereafter, solvers used to solve the questions. He further disclosed that in the year 2015, he alongwith Monu had facilitated about 50 candidates to their accomplice namely Narveer and his companions for securing job for said 50 candidates in various recruitments and all the said candidates were got selected. He further disclosed that in the year 2016, he alongwith Narveer. Udham Singh the elder brother of Narveer, Paramjit, Sachin Sardar son of Jai Bhagwan, Deepak Yadav, Vinesh Lakra and

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Sandeep Sandy had obtained and established a lab in Jaipur under the name and style of Alpha Cyber Lab, which was got registered in the name of Udham Singh and Sachin. Sachin used to work there as Centre Head, where various examinations were got conducted by them by obtaining examination centres from various renowned companies and for the said examinations, they only used to get Rs.110/- per candidates, with which they were not satisfied and their sole motive was to procure a job for the candidates by fraudulent acts by hacking the software of the company and to get cleared the examination of the candidates and from such acts, they used to fetch huge illegal benefits. He further disclosed that in the off-line examinations, they used to send the seaters/solvers in the examination centres with mobile phones, who used to send the photograph of the question paper to them on Whats-app and thereafter, they i.e. Narveer, Harpal Chhikara, Sandeep @Sandy, Paramjit Bittu, Dharmender, Jaibir, Lala MDU Rohtak, Maharaaj and Manoj Monu used to solve the question paper and used to send the answers of the same through text messages to their candidates, who also used to take a small mobile apparatus with them in the examination centres having a new SIM Card. He also disclosed that they used to send Jitu, Jeet. Sintu and Deepak Yadav inside the examination centre, who used to send the photograph of the question paper on mobile phones. During the online exams, accused Harpal Chhikara and Gaurav (brother in law of Harpal Chhikara) used to share the screen of the computer of the examinee and they used to hand over the roll numbers to Narveer. Accused Ashok @ Shoki further disclosed that he used to get Rs.50,000/- as commission for each candidate and he continued to indulge in the said activities till the year 2018. He further disclosed that during online examination, the candidates were instructed to enter their place of examination point immediately within the

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15/20 first candidates and after the allotment of seat of their candidate. IT expert (Jai Bhagwan resident of Palwal, Mukesh resident of Ambala, Harender resident of Chhochhi) on duty used to visit their candidate and obtain ID number, user name and password of the particular candidate and then share the same outside the examination centre and by using the said ID number, they used to access the computer screen of a particular candidate and for doing so, they used to provide the internet facility in the lab secretly. He further disclosed that they used to install MAMMY ADMIN or ANYDESK software in the computer systems in examination centre and thereafter, they used to generate a common password of the remote software of all the systems. He further disclosed that their one invigilator used to remain present inside the room and they used to depute one Invigilator over every 25 candidates in the lab, who used to take attendance of the candidates and used to keep a watch on the candidates after commencement of the exam. He further disclosed that Sunil Kaushik, Devender resident of Noltha, Sandeep Malik resident of Buana Lakhu, Sandeep Sandy resident of village Sisana, Narveer, Udham Singh, Vinesh Lakra, Sudeep @ Shintu used to make arrangements for invigilators for their lab at Murthal Sonipat, Panipat, Mohali, Vamsi, Delhi, Jaipur and they used to pay Rs.500/- per day to the invigilators. He also disclosed about instructions given to the candidates during the examination as to who they could not be suspected if anyone comes in the examination centre for checking. He also disclosed that in this manner, they used to secure qualification of candidates in the online and off-line examinations and they got secured government jobs for about 1000 candidates on different posts, for which they got huge money from the candidates. He further disclosed that in all the above mentioned illegal acts, his companions namely Monu @ Doctor, Ashish, Narveer, Udham Singh,

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Paramjit, Sachin Sardar, Deepak Yadav SI, Vinesh Lakra, Sandeep Dahiya Sandy, Yogender @ Sunda, Satish Lathwal, Sunil Kaushik, Devender Jaglan, Sandeep Malik, Vikas Deep Dahiya @ VD and Anil Pandit were also enrolled. In the above mentioned acts, his employees namely, **Harender**, **Pankaj**, Jal Bhagwan, Gauri, Ashish, Aakash Kumar, Aakash Kumar Gaur, Pawan and Mukesh were also involved. They used to contact the candidates through Ranjit Singh, Parveen Tyagi, Tushar, Kapil Dahiya @ KD, Mitu, Kamal and they also used to contact the candidates through various Coaching Centres i.e. Ramesh Education Pvt. Ltd., Max Agency J & K and owners of coaching centres namely Jitender Tiwari, Dhananjay, Arjun, Rocky, Vikas Dahiya, Naveen Dahiya, Robin, Manoj, Sandeep Master, Shamsher, Ajit, Akshay, Ravinder Bittu, Vijay Master, Bijender, Sushil Hooda and Jitu. He also disclosed the names of some of the persons for whom they secured jobs in various departments. Accused Monu @ Doctor in his disclosure statement also disclosed the identical facts. In pursuance of his disclosure statement, accused Ashok @ Shoki got recovered one laptop, two mobile phones, 20 pen drives, five blank cheques. Accused Monu @ Doctor got recovered two mobile phones, one laptop, 20 pen-drives, one hard disc, three blank cheques. Accused Ashish son of Narender got recovered one mobile phone, one dongle wi-fi, 10 pen-drives and one list of candidates.

On 07.10.2021, accused Gauri son of Dilawar Singh, Ashish son of Anup Singh, Aakash Kumar son of Ram Swaroop and Aakash Kumar Gaur son of Ram Partap Gaur were joined in the investigation and were arrested. On interrogation, they suffered their respective disclosure statements and admitted their guilt.

On 09.10.2021, accused Vikas Deep Dahiya son of Karan Singh

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was arrested in the instant case and on interrogation, suffered his disclosure statement and admitted his guilt pursuant to which he got recovered a mobile phone, boarding pass and passport, which were taken into possession. He also got recovered the application forms filled by various candidates, Aadhar Cards of the candidates and one register, which was maintained by accused with regard to payments made to numerous co-accused from his residential house at Sector-23. Sonipat. He also got demarcated APIIT SD India Lab, Panipat.

During investigation, correspondence was made with concerned banks for obtaining account details/statements of accused and notices under Section 91 Cr.P.C. were also served upon them in this regard. For obtaining the details/record of the JEE Mains examination and other examinations held In APIIT Lab, Panipat correspondence was made with National Testing Agency. Okhla, Delhi. TATA Consultancy Services, Chandigarh, Earnst & Young Company. Gurugram, Innovative View India Private Limited, Noida. Shri Balwant Institute of Technology, Sonipat, Asia Pacific Institute of Information and Technology, Panipat, Internal Institute of Technology and Management, Murthal, Sonipat, Vamsi Digital Zole LAB, Delhi, Alfa Cyber Lan Lab, Jaipur, Cyber Journey Techworld Lab, Jaipur, Quest Group of Institutions, Mohali, Shristi Lab, Delhi, Dhruv Lab, Delhi, Agnihotry College of Engineering (Wadwa Lab), Delhi Institute of Technology and Management, Sonipat, Bahra Institute of Management and Technology, Sonipat, Shri Krishna Institute of Engineering and Technology, Rattan Dera Road, Mohan Nagar, Kurukshetra and in this regard, notices under Section 91 Cr.P.C. were also served upon the above said authorities.

With a view to ascertain the modus-operandi of the accused, on 14.10.2021, accused Ashok @ Shoki, Monu @ Doctor, Vikas Deep Dahiya,

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Gauri, Aakash son of Ram Saroop, Aakash Kumar Gaur, Ashish son of Narender and Ashish son of Anup Singh, performed the demonstration of the examination as to how and in what manner they used to hack the examination centres and used to solve the examination paper in the presence of officials and officers of TCS Company which is the company on whose software the examinations were being conducted online in different examination centres. In this regard separate recreation of the scene was prepared, which was signed by the accused and witnesses and from the above mentioned demonstration and recreation of the scene report, the modus operandi of the accused persons was ascertained. On 14.10.2021, the relevant record was also produced by Shri Abhimanyu Marwah, Regional Operation Manager, TCS Company, which was taken into possession.

On 15.10.2021, accused Ashok @ Shoki and Monu @ Doctor again suffered disclosure statements, in which they disclosed that they had already burnt the record/diary/register maintained by them for record of the students/candidates for which they secured examinations and the said record was burnt by them with a view to cause disappearance of the evidence and Section 201 IPC was invoked in the present case. On 16.10.2021, accused Ashok @ Shoki and Monu @ Doctor again demonstrated the modus operandi by way of hacking and by launching remote access from outside to the software and by solving the exam and the said demonstration was performed by both the accused in the presence of officials and officers of TCS Company. With regard to demonstration performed by accused Ashok @ Shoki and Monu @ Doctor, recreation of the scene report was prepared, which bears the signatures of accused Ashok @ Shoki and Monu @ Doctor as well as the witnesses thereof. In pursuance of their disclosure statements, the accused also demarcated the labs from where they had committed the

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above mentioned illegal activities.

On 25.10.2021, accused Jai Bhagwan and Mukesh were arrested in the instant case and on interrogation, they suffered their disclosure statements and admitted their guilt. In pursuance thereof, they got demarcated the labs i.e. IITM, Murthal and APIIT, Panipat, where they had committed the above mentioned illegal activities. On 27.10.2021, accused Jai Bhagwan and Mukesh performed the demonstration of examination as to in which manner, they used to hack the particular computer system, on which their candidate was sitting and said demonstration of examination was performed by the accused in APIIT Lab, Panipat. From the above mentioned demonstration, which was video-graphed and was conducted in the presence of officials/officers of TCS Company, the modus operandi of the accused persons was ascertained. In this regard also, separate recreation of the scene report was prepared, which bears the signatures of accused Jai Bhagwan and Mukesh and witnesses present at that time. The pen drive containing the videography of demonstration was prepared by ASI Sushil, Photographer, SP Office Panipat and the same was taken into possession. In pursuance of their disclosure statement, accused Jaibhagwan and Mukesh got demarcated IITM Lab Murthal.

On 28.10.2021, production warrants of accused Vikas Deep Dahiya was got issued with a view to obtain his specimen signature/handwriting, consequent to which he was produced in the court on 29.10.2021 and his specimen handwriting were obtained with the permission of the court for comparison of the same with register got recovered by him from his residential house in Sec-23 Sonipat. On 15.11.2021 the case property i.e. mobile phones, laptops, pen-drives, hard discs, wi-fi dongle got recovered by accused were sent to Cyber Forensic Laboratory, Panchkula for

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examination, the report of which is still awaited. On 18.11.2021, Shri Udit Dixit, Head Business Development Officer, Innovatiview India Pvt. Ltd., Noida, Uttar Pradesh produced the hard disc containing the CCTV footage of JEE Mains examinations conducted at APIIT, Panipat, which was taken into possession.

On 21.11.2021 accused Sunil Kaushik son of Phool Singh and Tushar Pandey son of Sanjay Kumar Pandey (student, whose examination was got cleared in JEE Exam) were arrested in the instant case and on interrogation, they suffered disclosure statements and admitted their guilt. In pursuance of his disclosure statement, accused Sunil Kaushik got recovered his two mobile phones and one list of students of J.E. Mains and also got demarcated DITM Lab, Ganaur, APIIT Lab, Panipat, IITM, Murthal and all these labs belong to accused Sunil Kaushik. In pursuance of his disclosure statement accused Tushar Pandey got demarcated Hotel Gold, Panipat, where he had paid money to Jitender Tiwari, resident of Jamshedpur, Jharkhand for securing good marks in the examination.

On 24.11.2021, accused Aryaman Sharma son of Nek Ram, Sumesh son of Ashwani, Taha Nazir son of Nazir Ahmad Beg, Subhankar Paani son of Shyampada Paani (students whose examination was got cleared in JEE Exam by way of the above mentioned illegal activities) were joined in the investigation of the case and were formally arrested in the present case and they were released on police bail.

From the evidence collected during investigation, names of about 350 candidates, who secured JEE examination fraudulently were ascertained. The modus operandi adopted by the accused persons in committing the above mentioned offence was that they used to set up labs in different cities and they obtained certification from renowned companies

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such as TCS, SAI Educare Pvt. Ltd., Ginger Web Pvt. Ltd. etc., and thereafter, they used to upload software in the computers in their labs and with the help of said software, the screen of their particular examinee, with whom they had a dealing, was shared with a paper solver sitting somewhere else with the help of remote access. After getting access to the screen of the examinee, the solvers used to solve the examination while sitting away from the examination centre and thus, from the said illegality, the examinee used to secure good marks in the examination. For doing so, the accused used to receive huge amounts from the candidates/students. The equipments used in the commission of the offence i.e. laptops, pen-drives in huge quantity, mobile phones, hard disc and wi-fi dongle were recovered from co-accused. The final report under Section 173 Cr.P.C. was submitted in the Court against accused Ashok @ Shoki, Monu Kumar Doctor, Ashish son of Narender, Aakash son of Ram Partap Gaur, Ashish son of Anup Singh, Aakash son of Ram Swaroop, Gauri son of Dilawar, Vikas Deep Dahiya @ VD, Jai Bhagwan and Mukesh Verma on 06.12.2021 for the commission of offence punishable under Sections 120-B/419/420 IPC and Sections 66-C and 66-D of IT Act.

Thereafter, on 29.11.2021, accused Ravinder @ Bittu son of Baljit was arrested in this case. On interrogation, he suffered a disclosure statement and admitted his guilt. In pursuance thereof, he got recovered one mobile phone, one list of candidates of J.E. Mains Exam and he also got demarcated five labs i.e. A.R. Assessment Centre, Computer Lab, Mohan Nagar, Delhi, Moder Computer Lab, Jaipur, DITM Lab. Ganaur, IITM Lab, Murthal and APIIT Computer Lab, Panipat, in which labs, he alongwith co-accused used to commit the above mentioned illegal activities. On 09.12.2021, accused Tushar @ Sanjay son of Rakesh and Parveen Kumar

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Tyagi were arrested, who on interrogation suffered their disclosure statements and admitted their guilt. In pursuance of their disclosure statements they demarcated the said place, where they had thrown the damaged laptop and mobile phone. They also got demarcated the place at G.T. Road, Murthal, Sonipat where they used to solve the question papers received by them through remote access while sitting in their car bearing registration No.HR-42G-7004, which was produced by the brother of accused Parveen Tyagi namely Naveen Tyagi and the same was taken into possession. They also got demarcated four labs i.e. SBIT Khewra, Sonipat, IITM Murthal, Sonipat, APIIT Panipat and DITM Lab, Ganaur where they used to commit the above mentioned illegal acts.

On 14.12.2021, accused Robin was arrested and on interrogation, he suffered his disclosure statement and admitted his guilt and also disclosed that he was posted as Constable in Delhi Police and was absent from duty for the last several months and presently, he was posted at 7 Batalion, DAP, Manviya Nagar, Delhi. He further disclosed that he along with companions namely Chand and other accomplices had secured jobs in SSC, CHSL, SSC, CGL, SSC, MTS, RPF, Railway Group-D, Railway JE, SSC GD, Postman, Indian Air Force, DSSB, Indian Navy, Rajasthan Electricity Department, Delhi Forest Guard, Banking, CSIR, PGI ICMR, CRP PO Recruitment, RBI Attendant Exame, ICAR UG Exam and AIIMS and also secured entrance in UGC NET, GATE, JEE Mains for various candidates. He also disclosed the quantum of money, which was being received by them from the different candidates for various posts and entrance exams. He further disclosed that he along with his companions used to take vacant buildings on rent and used to establish on-line and off-line labs there in different cities for the above said acts. He had also obtained

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several labs and he had also got registered one organization in the name of his father Rajpal under the name and style of RSK Educational & Social Welfare Trust. He also disclosed that they had secured jobs for thousands of candidates fraudulently. He also disclosed about the facts of their modus operandi. He also disclosed that he was having labs i.e. Rayat Bahra, Chidana, Mohali Rayat Bahara Lab, Vyomic Computer Lab, Dwarka, Aeoroplanate Air Hostess Training Centre Computer Lab, Dwarka, Sunrise Computer Lab, Mundka, MAV Computer Lab, Rithala, Ganpati Computer Lab, Yamuna Nagar, Excellent Online Test Centre Computer Lab,Narayana, Delhi, Ganpati Computer Lab, Bilaspur, Yamuna Nagar, where they used to commit the above illegalities and they also did the said acts in APIIT Lab, Panipat, IITM, Murthal, DITM, Ganaur, SBIT Khewra, Sonipat, where also they had wrongly and fraudulently secured the exams for the candidates. He further disclosed that in all the above mentioned illegal acts, his worker Chand with their other companions was also involved. In pursuance of his disclosure statement, accused Robin got demarcated a total of 11 labs situated in Delhi, Haryana and Punjab, where the above mentioned illegal acts were committed by the accused persons. During investigation, a rent agreement of Excellent Online Test Centre Computer Lab, Narayna, Delhi was obtained and taken into possession.

After completion of investigation, a supplementary challan was presented on 18.01.2022 against accused Sunil Kaushik, Tushar Pandey, Taha Nazir Beg, Subhankar Paani, Ravidner @ Bittu, Parveen Tyagi, Tushar @ Sanjay and Robin Singh.

Thereafter, accused Suresh @ Raju, Kuldeep son of Om Parkash, Dishant @ Ocky, Raj Singh @ Raj Tewatia, Sachin @ Sardar, Amit @ Meetu, Sushil @ Chhota, Pawanjit, Atul, Ravi Dahiya, Aakash,

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Abhay, Vishal and Manjit were arrested in the present case and on interrogation, they suffered their respective disclosure statements and admitted their guilt. On 11.03.2022, accused Amit Kumar and Satish Kumar, both sons of Karambir, residents of village Mudlana, Sonipat were arrested in the present case, who on interrogation suffered their respective disclosure statements and admitted their guilt. They also disclosed that they came in contact with co-accused Ashok @ Shoki in the year 2013-2014, who told them that he used to secure examinations of government jobs etc. after getting money and through Ashok @ Shoki, they also came in contact with Sunil Kaushik, Monu @ Doctor, Robin Singh, Kuldeep Lathwal, Dharmender Chidana and Narbir. Accused Satish also disclosed that he alongwith co- accused Ashok @ Shoki established Wamsi Lab, Delhi, agreement of which was in his name and thereafter, he also became partner in four labs i.e. APIIT Lab, Panipat, Rayat Bahra Lab, Chidana, IITM Lab, Murthal and Jaipur Lab with Ashok, Akshay, Sandeep Lakhu Buana, Vinesh Lakra, Robin and Ravinder @ Bittu. They both also disclosed that they had contributed Rs.20.00 lacs as their share in the said labs, which amount was earned by them by getting passed the exams of the candidates. At the time of examination, they used to collect the roll number and admit cards from the candidates and used to send the same to their companions, who used to achieve success of candidates in the examinations through remote access and by sending slips and thereafter, they used to get share of the money. Accused Satish Kumar and Amit Kumar further disclosed that their known persons namely Vishal son of Bijender, resident of Khairpur, District Jhajjar and Sunil son of Bheem Singh, resident of village Sikandarpur Majra, District Sonipat used to send the admit cards/roll numbers of the candidates to them on whats-app for securing success for their candidates after making

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settlement of money. Thereafter, they used to share the money fetched by them from the above activities.

On 22.03.2022, accused Sunil Kumar was arrested in present case and on interrogation, he suffered a disclosure statement and admitted his guilt and also disclosed that he was a qualified MBA and was running a Coaching Centre under the name and style of RG Institute, Gohana. He also disclosed that he used to send the copies of admit cards/roll numbers of candidates through Whats-app to Robin Singh, Rakesh @ Raka, Kapil Dahiya, Satish Mudlana, Amit Mudlana, Sandeep Lakhu Buana, Dharmender Lathwal, Kuldeep Lathwal for securing the government jobs and entrance in courses for the candidates i.e. Delhi Police, MTS, CHSL, Delhi University Clerk, FSSAI, UGC, NET, AIIMS. He further disclosed that for Delhi Police recruitment, he used to get Rs.10.00 lacs from each candidate and used to give Rs.8.00 lacs to Robin Singh and for MTS/CHSL, he used to received Rs.8.00 lacs and give Rs.6.00 lacs to Robin Singh, Rakesh Raka, Kapil Dahiya, Satish Mudlana, Amit, Sandeep Lakhu Buana, Dharmender Lathwal, Kuldeep Lathwal. He also disclosed that so far, he had sent admit cards/job cards of 20/25 candidates in Delhi Police, 30/35 candidates in MTS/CHSL and JEE Mains to his above named companions. He also disclosed that with regard to these activities, he had also maintained diaries with particulars of candidates, job done and details of money. In pursuance of his disclosure statement, accused Sunil Kumar got recovered two diaries in which he had maintained the details of candidates, job done and the details of money exchanged hands. He also got recovered another diary, which was in his handwriting as well as his mobile phone. Accused Vishal was arrested on 22.03.2022 and accused Manjit was arrested on 23.03.2022 and on interrogation, they suffered disclosure statements and

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admitted their guilt. Thereafter, with the permission of the Court specimen handwriting/signatures of accused Sunil Kumar were obtained and the same were sent to FSL, Madhuban for comparison with the diaries got recovered by him the report of which is still awaited. After completion of investigation, a supplementary challan was submitted against accused Aryaman Sharma, Suresh Raju, Ravi Dahiya, Pawanjit, Atul, Sunil Kumar, Sushil Chhota, Kuldeep son of Om Parkash, Raj Singh @ Raj Tewatia, Sachin @ Sardar, Amit @ Meetu, Dishant @ Ocky, Satish Kumar, Amit Kumar, Aakash, Abhay, Vishal and Manjit on 19.05.2022.

Thereafter, accused Arvind, Akshay, Vijay, Narbir, Vinesh, Jitender, Kapil, Sandeep, Bijender, Rajender, Pawan, Virender, Jitender, Ishwar, Harpal, Samsher, Sandeep @ Sandy, Jitender @ Jitu, Abhimanyu, Sudeep @ Sintu, Ronak were arrested in the present case and supplementary challan against them was submitted in the Court on 20.09.2022. Thereafter, all the accused were charge-sheeted by the trial Court vide order dated 10.10.2022 under Sections 420/201/120-B IPC and 66-C/66-D IT Act. Thereafter, accused Mikhail Sargin and Kuldeep were arrested in the present case and after completion of investigation, a supplementary challan against them was submitted in the Court on 13.01.2023.

After filing of the supplementary challan against accused Mikhail Shargin and Kuldeep, charges in the present case were framed vide order dated 17.05.2023 under Sections 120-B/420/201 IPC and Sections 66-C/66-D of IT Act.

On 12.04.2023, accused Naveen was arrested in the present case and on interrogation, he suffered his disclosure statement and admitted his guilt, pursuant to which he got recovered his mobile phone. On 19.04.2023, accused Advet was arrested in the present case and on interrogation, he

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suffered a disclosure statement and admitted his guilt pursuant to which he got recovered his mobile phone. The mobile phones got recovered by accused Naveen and Advet were deposited with Cyber Forensic Laboratory, Panchkula, the report of which is still awaited. The case qua accused Naveen and Advet is still under investigation and a supplementary challan against them is likely to be submitted in the Court soon.

4. The Counsel for the petitioners contends that they have been named in the disclosure statement of co-accused Ashok @ Shoki and Monu @ Doctor. Both Ashok @ Shoki and Monu @ Doctor have been granted the concession of bail. One Sudeep Phogat had been granted the concession of anticipatory bail. As there was no evidence against the petitioners other than the disclosure statement in question and they were ready and willing to join the investigation, they were entitled to the concession of anticipatory bail.

5. The Counsel for the State on the other hand has filed separate replies both dated 19.01.2024 by way of affidavit of Mr. Preet Pal, HPS, Deputy Superintendent of Police, Special Task Force, Gurugram in Court, which is taken on record. While referring to the said replies he contends that during the course of investigation it came to light that the petitioners were doing IT work in the labs of Ashok @ Shoki, Monu @ Doctor, Sunil Kaushik and Robin Singh. They used to upload softwares for hacking the computers at the time of examination and would send the username, IDs and passwords of the candidates to the solvers present outside the examination centres and were thus complicit in the commission of the offence. All this was being done with a view to obtain money. The petitioners also provided candidates who wanted to clear various examinations through illegal means to the co-accused for commission. Their custodial interrogation was necessary for recovery of pen drives, hard discs and laptops etc., which had

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been used for uploading the softwares for hacking the computers. The names of the solvers of the papers with whom the petitioners used to share the said information was to be ascertained. As the offence was *prima facie* established from the investigation conducted so far no case for the grant of anticipatory bail was made out and the petitions were liable to be dismissed.

6. I have heard learned Counsel for the parties.

7. The Hon'ble Supreme Court in the case of "***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Livelaw (SC) 870***'', has held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the *prima facie* case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

> " *It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.*
>
> *Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.*
>
> *We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted.* ***There appears to***

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> ***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 ignored or overlooked and he should be granted 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 custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail***".

8. A perusal of the investigation conducted so far would clearly establish that the petitioners were working as technicians in the IT labs of the co-accused including Ashok @ Shoki and Monu @ Doctor. All the IT related work pertaining to hacking of the computers, sending of IDs and passwords etc., was being undertaken by the petitioners. The recoveries of pen drives, hard discs and laptops etc., are to be effected from them. Merely because the co-accused had been granted the concession of regular bail did not mean that the petitioners were entitled to the concession of anticipatory bail as the consideration for grant of regular bail and anticipatory bail are clearly different. As regards the grant of anticipatory bail to the co-accused Sudeep Phogat is concerned, it may be pointed out that his role is completely different. The said Sudeep Phogat was only an invigilator and was paid Rs.500/- per day in a cyber lab. The petitioners on the other hand were active facilitators and participants. As various recoveries are to be effected, the investigation has to be taken to its logical conclusion and the offence

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stands *prima facie* established, the petitioners are not entitled to the grant of anticipatory bail.

9. In view of the above, I find no merit in the present petitions and, therefore, the same stand dismissed.

10. However, the observations made hereinabove are only for the purposes of deciding these anticipatory bail petitions and the Trial Court is free to adjudicate upon the matter on the basis of the evidence lead before it uninfluenced by any such observations made.

(JASJIT SINGH BEDI)
JUDGE

February 22, 2024
Vinay

Whether speaking/reasoned	***Yes/No***
Whether reportable	***Yes/No***

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