

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.73003 of 2024

Arising Out of PS. Case No.-6 Year-2024 Thana- C.B.I CASE District- Patna

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1. Shiv Nandan Kumar Son of Ramswarup Yadav R/o- Haraia, P.S.- Barachatti, Haraia, Gaya, Bihar,- 824201
 2. Awadhesh Kumar @ Akhilesh Kumar Son of Awadh Bihari Singh Resident of PWD Colony Kanke, Gokul Marg Near Durga Sthan, P.S.- Kanke, Ranchi, Jharkhand- 834006
 3. Abhishek Kumar Son of Awadhesh Kumar Resident of PWD Colony Kanke, Gokul Marg Near Durga Sthan, P.S.- Kanke, Ranchi, Jharkhand- 834006

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. The Superintendent of Police, Central Bureau of Investigation (CBI), Patna BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. S.K. Srivastava, Sr. Adv.

Mr. Apurv Hars, Adv.

Mr. Vishal Vikram Rana

For the Opposite Party/s : Mr. Abhimanyu Sharma

Ms. Nivedita Nirvikar, Sr. Adv. C.B.I.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 06-03-2025 1. Heard learned counsel for the petitioners and learned counsel for C.B.I.

2. The petitioners seek regular bail in connection with Shastri Nagar P.S. Case No. 358 of 2024 dated 05.05.2024, instituted for the offences punishable under Sections 407, 408, 409, 120B of the I.P.C. Subsequently, the case was taken over



by the C.B.I. and re-registered as RC Case No. 221/2024E0006-CBI/EO-III/ New Delhi on 23.06.2024 under Sections 120-B r/w Sections 407, 408, 409 of the I.P.C.

3. The prosecution case as per the allegation made in the F.I.R. is that the informant Inspector -cum- SHO of Shastinagar Police Station, Patna on 05.05.2024 during patrolling got information from his Senior Officials that in the NEET UG Exam, 2024 an organized gang, some students along with staffs in collusion has breached the integrity and sanctity of the chain of custody of question papers and leaked the same. He was also informed that some members of the gang were moving in a white colour Renault Duster car. The informant intercepted the white colour Renault Duster car bearing registration number JH-01BW-0019 and arrested three persons from the car who disclosed their names as Sikandar Yadvendu, Akhilesh Kumar and Bittu Kumar. Upon search, admit cards of four candidates namely Abhishek Kumar, Shivnandan Kumar, Aayush Raj and Anurag Yadav were recovered. Two mobile phones were also recovered from the pocket of arrested co-accused / Sikandar Yadvendu. On interrogation regarding the question papers, accused- Sikandar Yadvendu told that the students are taking examination at various centres and arrangements for their



examination was made by him. They had taken some of the students for memorizing the answers of NEET questions. Subsequently, police party reached one of the examination centres i.e. D.A.V. Public School, B.S.E.B. Colony, Patna, where Ayush Raj (accused) was taking the examination. After the examination was over, Police took him in custody and during interrogation he revealed that on 04.05.2024 he along with 20-25 other students were taken to Learn Boys Hostel and Learn Play School situated at Khemnichak, Patna and were provided with solved question papers in order to memorize them. In competitive examination, all questions came from the same question booklet.

4. Learned senior counsel for the petitioners Mr. S.K. Srivastava, assisted by Mr. Apurv Harsh, Advocate argued that the First Information Report does not disclose any specific role of the petitioners in breaching the chain of custody of the question papers and no incriminating material at all has been recovered from the possession of the petitioners. Learned counsel further submits that it is not the case of the prosecution that the petitioners were caught while cheating or using unfair means during the NEET Examination. The petitioner nos. 1 & 3 are young student, aged about 18 & 21 years respectively whereas



the petitioner no. 2 is the father of petitioner no. 3. During course of investigation, it has been revealed that co-accused Akhilesh Kumar Verma was in contact with co-accused / Sikandar Yadvendu, who was arrested from the car. Accused Akhilesh Kumar Verma had forwarded the admit card of NEET Exam of his son Ayush Raj to the accused Sikandar Yadvendu. The digital copy of the admit card of Ayush Raj was recovered from Sikandar Yadvendu's mobile phone. The printed copy of the same has also been recovered from Sikandar Yadvendu's car, as such, it is evident that father of Ayush Raj was instrumental in arranging the things for his son who was an examinee of NEET UG 2024.

5. Referring to paragraph no. 16.10 of the charge sheet learned counsel submits that investigation revealed that accused Avadhesh Kumar (petitioner no. 2) along with his son accused Abhishek Kumar (petitioner no. 3), friend Dev Chandra and brother-in-law Arvind Kumar travelled from Ranchi to Patna on 04.05.2024 and stayed in Hotel Bailey Grand near RPS More, Patna.

6. Learned counsel while referring to paragraph no. 16.13 of the final report submits that investigation has revealed that in furtherance to the said criminal conspiracy on 04.05.2024



accused Sikandar Yadvendu coordinated with accused persons Akhilesh Kumar (father of Ayush Raj), Avdhesh Kumar (father of Abhishek Kumar) and Shivnandan Kumar and directed them to bring the candidates near St. Karen's High School at around 10:30 P.M. on 04.05.2024. The call logs of mobile phone of accused Sikander Yadvendu confirm that he was in contact with Akhilesh Kumar, Avadhesh Kumar, Anurag Yadav and Shiv Nandan Kumar.

7. Learned counsel further submits that during course of investigation it has also come to light that trunks carrying the original question papers of the NEET UG Exam 2024 were collected by Ahsanul Haque from the SBI Bank's vault at Hazaribagh at around 7:40 am on 05.05.2024 for the exam centre at Oasis School. These trunks were then handed over by him to Imtiaz Alam, who brought them to Oasis School at around 7:53 am on 05.05.2024 and placed them at the school's control room. Investigation has revealed that Dr. Ahsanul Haq and Imtiaz Alam had entered into a criminal conspiracy with Pankaj Kumar @ Aditya and others to remove / steal the question paper by making its digital copy from the trunk once they were placed in the school's control room. The same stolen copy of the question paper was to be then solved by co-accused



and then to be given to the candidates in lieu of the monetary gains with portion of the money so received was to be given to Dr. Ahsanul Haq and Imtiaz Alam.

8. It has further been revealed that in pursuance of the said criminal conspiracy, Ahsanul Haque and Imtiaz Alam allowed unauthorized entry of Pankaj Kumar to the control room after the trunks carrying the papers were kept in the control room of Oasis School. On 05.05.2024 Pankaj Kumar entered the control room from the rear door at 08:02 am and left the control room at 09:23 am. The act of entry and exit has been recorded in the CCTV footage of the Oasis School. Accused Pankaj Kumar tampered with rear side of one of the trunks containing the NEET UG 2024 question papers. He took out one paper having booklet series no. 6136488, took its digital copies, placed back the original paper into the trunk after sealing the covers and then resealed the trunk.

9. Thus, the submission is that the question paper could not have reached the petitioner and other students on 04.05.2024 when the same was taken out on 05.05.2024 at about 9:30 am as per the CCTV footage of the Oasis School. Had the question papers been provided to the petitioners on the date of examination with the solved answers for memorizing, the



petitioners would have secured high marks whereas admittedly petitioner nos. 1 & 3 have obtained much less than the cut-off marks for admission. The cut-off marks for admission in NEET UG 2024 was above 600 marks.

10. It is further submitted that petitioners have been made accused in the present case only on the basis of suspicion that too on the basis of confessional statement of the co-accused before the Police which has got no evidentiary value in the eye of law.

11. It is next submitted that the petitioners are neither public servant nor a banker therefore no offence under Section 409 of the I.P.C. is made out against the petitioners. However, for the same reason, the petitioners not being a clerk or servant, they could not have committed offence under Section 408 of the I.P.C. In other words, the argument is that none of the offence as alleged in the First Information Report or in the charge-sheet is made out against the petitioners. He also submits that the C.B.I. after investigation, submitted final report (charge-sheet) bearing charge-sheet no. 19 of 2024 under Sections 120-B r/w Sections 201, 409, 380, 411, 420, 109 of the I.P.C. The investigation against the petitioners is over and the only concern in post charge-sheet custody of accused can be of ensuring his / her /



their participation in trial and the witness not getting approached or evidence not getting tampered with which too is unlikely as petitioners do not even have a passport and cannot be held to be a flight risk while all the evidence i.e. material is already in the custody of prosecution and filed in the court which cannot be tampered with now by the petitioners and the petitioners would not attempt in any manner whatsoever to approach the witnesses. Learned counsel also submits that the petitioners are in custody since 05.05.2024 having no criminal antecedent and this is the first offence of the petitioners. He further submits that similarly situated co-accused: Ayush Kumar @ Ayush Raj has been granted regular bail by this Court vide Cr. Misc. No. 70959 of 2024. The father of Ayush Raj namely Akhilesh Kumar @ Abhishek Kumar has been granted bail by Co-ordinate Bench vide order dated 28.02.2025 in Cr. Misc. No. 74161 of 2024. Petitioner no. 2 is similarly situated to father of Ayush Raj as he is the father of examinee petitioner no. 3.

12. Citing judgments of the Hon'ble Supreme Court and the High Courts, learned counsel submits that normal rule is of bail and not jail.

13. On the other hand, learned counsel for the C.B.I. Ms. Nivedita Nirvikar vehemently opposed the prayer for bail



and submits that upon investigation, substantial evidence came to be found against the petitioners. She further argued that petitioners nos. 1 & 3 are the ultimate beneficiary of the leaked question paper of NEET (UG) Examination, 2024.

14. Referring to paragraph no. 16.6 of the final report, learned counsel submits that it has come during investigation that accused candidates Anurag Yadav, Abhishek Kumar, Ayush Raj, Shivnandan Kumar and accused Akhilesh Kumar father of accused candidate Ayush Raj, accused Avdhesh Kumar father of accused candidate Abhishek Kumar entered into a criminal conspiracy with accused Sikandar Yadvendu so as to access the solved stolen NEET UG 2024 examination papers before the commencement of the examination. In lieu of obtaining the solved papers these accused persons agreed to pay Rs. 30-40 lakh each.

15. She further argued that in paragraph no. 16.9 of the charge sheet it has come that in pursuance of the said criminal conspiracy accused Abhishek Kumar, a resident of Ranchi, Jharkhand also chose Patna as center for his NEET (UG)-2024 Exam following the direction of accused Sikander Yadevindu. In furtherance of the aforesaid criminal conspiracy accused Avadhesh Kumar forwarded the admit card of NEET



(UG) 2024 Exam of his son accused Abhishek Kumar from his mobile no. 9102994615 to accused Sikander Yadvendu through Whatsapp. The digital copy of the admit card of the accused Abhishek Kumar has been recovered from Sikander's mobile phone. Further the printed copy of the same has also been recovered from Sikander's car when his car was intercepted by the Bihar Police.

16. Learned counsel submits that in paragraph no. 16.11 of the charge sheet it has been mentioned that investigation has revealed that accused Shivnandan Kumar is resident of Gaya district and he chose Patna as center for his NEET (UG) 2024 Exam. He was connected to accused Sikander Yadvendu through his father, Ram Swaroop Yadav. In pursuance of the aforesaid criminal conspiracy accused Shivnandan Kumar had forwarded his admit card of NEET (UG) 2024 Exam to accused Sikander Yadvendu. The digital copy of the admit card of accused Shivnandan Kumar has been recovered from Sikander's mobile phone. Further, printed copy of the same has also been recovered from Sikander's car when his car was intercepted by the Bihar Police.

17. Referring to paragraph no. 16.32 of the final report she submits that investigation revealed that accused Baldev



Kumar @ Chintu printed the PDF using the laptop and printer brought by accused Nitish Kumar. Accused persons Nitish Kumar, Abhimanyu Patel and Baldev Kumar @ Chintu printed 15 sets of the solved question paper. Each set was given to 2-3 candidates including Ayush Raj, Abhishek Kumar, Anurag Yadav and Shivnandan Kumar to memorize the answers. During this process, accused persons Baldev Kumar alias Chintu, Pintu Kumar, Nitish Kumar, Abhimanyu Patel, Ashutosh Kumar S/o Ramdev Prasad and Manish Prakash were present at the Learn Play School.

18. I have heard learned counsel for the parties and perused the materials on record. The petitioner nos. 1 & 3 participated in the examination and they may be the beneficiary of the leaked question paper. But now the investigation is complete and final form (charge-sheet) has already been submitted by the C.B.I. in the court. This court has been informed by learned counsel for the C.B.I. that cognizance of offence against the petitioners has already been taken. The petitioner remained in custody for more than 09 months and detaining them further in custody is not going to serve any purpose. It is settled that object of bail is to secure the attendance of the accused in the trial. There is no likelihood that



the petitioners will abscond or tamper with the evidence. Similarly placed co-accused Ayush Kumar @ Ayush Raj has been granted regular bail by this court vide order dated 24.01.2025 passed in Cr. Misc. No. 70959 of 2024. Father of Ayush Raj has also been granted bail by a Co-ordinate Bench and petitioner no. 2 is father of petitioner no. 3. Accordingly, I am inclined to grant regular bail to the petitioners.

19. This application is accordingly allowed.

20. Let the petitioners, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with one surety of the like amount to the satisfaction of learned Special Judge, CBI-II, Patna / concerned court in connection with Shastri Nagar P.S. Case No. 358 / 2024 and RC Case No. 221/2024E0006-CBI/EO-III / New Delhi, with further conditions as enumerated hereinbelow :-

(1) The petitioners shall appear before the learned Trial Court on each and every date so fixed by the Court and in default of two consecutive dates the present privilege of regular bail may liable to be cancelled.

(2) The petitioners shall not tamper with the evidence nor interfere with the investigation of the case, which is going on against the other accused persons in any manner whatsoever.

(3) The petitioners shall not intimidate and / or



influence the witnesses by inducement, fraud or promise.

(4) The petitioners shall not leave the territory of India without permission of the Court and shall hand over the passport if any to the C.B.I.

21. It is made clear that if the petitioners violate any of the conditions imposed upon them, the C.B.I. shall be at liberty to approach this Court for cancellation of bail.

(Anil Kumar Sinha, J)

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