

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70959 of 2024

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

Ayush Kumar @ Ayush Raj Son of Akhilesh Kumar Verma Resident of Ward no. 15, Sultanpur Danapur Cantt, P.S. - Danapur, District - Patna, Bihar

... .. Petitioner/s

Versus

Central Bureau of Investigation through the ASP-CBI EOIII, Delhi, New Delhi

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.D.K. Srivastava, Advocate
	:	Mr.Apurv Harsh, Advocate
	:	Mr.Manu Tripurari, Advocate
	:	Mr.Raghu Raj Pratap, Advocate
	:	Ms.Jaya Singh, Advocate
	:	Mr.Hritik Anand, Advocate
	:	Mr.Gaurav Sharma, Advocate
	:	Mr.Astitva, Advocate
	:	Ms.Shurbhi Srivastava, Advocate

For the C.B.I.	:	Mr.Avanish Kumar Singh, Spl.P.P., C.B.I.
	:	Mr.Ambar Narayan, Advocate
	:	Mrs.Barkha, Advocate
	:	Mr.Mukul Kr. Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 5 24-01-2025 1. Heard learned counsel for the petitioner and learned counsel for C.B.I.
2. The petitioner seeks regular bail in connection with Shastri Nagar PS case no. 358 of 2024 dated 05.05.2024, instituted for the offences punishable under Sections 407, 408, 409, 120 of the Indian Penal Code. Subsequently, the case was taken over by the C.B.I. and re-registered as RC No. 221/ 2024/ (E) 0006 on 23.06.2024 under Sections 120-B r/w Sections 407, 408, 409 of the Indian Penal Code.



3. The prosecution case, as per the allegation made in the First Information Report, is that the informant, Inspector-cum-SHO of Shastinagar Police Station, Patna, on 05.05.2024, during patrolling, got the 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 Shikandar Yadwendu, Akhilesh Kumar and Bittu Kumar. Upon search, admit cards of four candidates namely Abhishek Kumar, Shivnandan Kumar, Aayush Raj (petitioner) and Anurag Yadav were recovered. Two mobile phones were also recovered from the pocket of arrested co-accused Shikandar Yadwendu. On interrogation regarding the question papers, accused Shikandar Yadwendu 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 the petitioner was taking the examination. After the examination was over, the police took the petitioner in custody and during interrogation, he revealed that on 04.05.2024, petitioner 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 counsel for the petitioner Mr. S.K. Srivastava assisted by Mr. Apurva Harsh, Advocate and others argued that the First Information Report does not disclose any specific role of the petitioner in breaching the chain of custody of the question papers and no incriminating material at all, has been recovered from the possession of the petitioner. Learned counsel further submits that it is not the case of the prosecution that the petitioner was caught, while cheating or using unfair means during the NEET Examination. The petitioner is a young student, aged about 19 years. During course of investigation, it has been revealed that co-accused Akhilesh Kumar Verma was in contact with co-accused Shikandar Yadwendu, who was



arrested from the car. Accused Akhilesh Kumar Verma had forwarded the admit card of NEET Exam of his son i.e. the petitioner herein to accused Shikandar Yadwendu. The digital copy of the admit card of the petitioner was recovered from Shikandar Yadwendu's mobile phone. The printed copy of the same has also been recovered from Shikandar Yadwendu's car, as such, it is evident that father was instrumental in arranging the things for his son, who was the examinee of NEET UG 2024.

5. 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 Imtiyaz 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 Ahsanul Haq and Imtiyaz.

6. It has further been revealed that in pursuance of the said criminal conspiracy, Ahsanul Haq and Imtiyaz allowed unauthorised 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 trunk 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.

7. 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 petitioner



on the date of examination with the solved answers for memorizing, the petitioner would have secured high marks whereas admittedly, petitioner has obtained 300 marks, which is much less than the cut-off marks for admission. The cut-off marks for admission in NEET UG 2024 was above 600 marks.

8. It is further submitted that the only material which has come against the petitioner is that admit card of the petitioner and other three accused persons was recovered from white colour Renault Duster car and the recovery of the admit cards from the Renault car of the co-accused is the only reason of the arrest of the petitioner from the examination centre i.e. D.A.V. Public School, B.S.E.B. Colony, Patna.

9. It is next submitted that the petitioner is neither a public servant nor a banker, therefore, no offence under Section 409 of the Indian Penal Code is made out against the petitioner. However, for the same reason, the petitioner not being a clerk or servant, he could not have committed offence under Section 408 of the Indian Penal Code . 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 petitioner. 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 Indian Penal Code. The investigation against the petitioner is over and the only concern in post charge-sheet custody of accused can be of ensuring his participation in trial and the witness not getting approached or evidence not getting tampered with which too is unlikely as petitioner does 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 petitioner and the petitioner would not attempt in any manner whatsoever to approach the witnesses. Learned counsel also submits that the petitioner is in custody since 06.05.2024 having no criminal antecedent and this is the first offence of the petitioner.

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

11. On the other hand, learned counsel for the Central Bureau of Investigation (C.B.I.) Mr. Avanish Kumar Singh vehemently opposed the prayer for bail and submits that upon investigation, substantial evidence came to be found against the petitioner that the petitioner was taken by the conspirators/



co-accused to Learn Play School at Khemnichak, Patna and he was provided with a question booklet and the solved answers. The question which was provided to him matched with the actual question paper of NEET (UG) Examination, 2024.

12. Learned counsel further submits that on the information provided by the petitioner, half burnt and wet pieces of question papers of NEET (UG) Examination, 2024 was recovered from the roof of the said School.

13. Learned counsel next submits that the petitioner along with his accused-father namely Akhilesh Kumar was present at St. Karen's School in his nephew's car. In this car, co-accused Akhilesh Kumar carried all four candidates and dropped them near Grand Celebration Hotel, from where the candidates were picked by another co-accused Amit Anand. He further argued that petitioner is the ultimate beneficiary of the leaked question paper of NEET (UG) Examination, 2024.

14. Relying upon the judgment of *Nidhi Kaim v. State of Madhya Pradesh and ors. [2016(7) SCC 615]*, learned counsel submits that the Hon'ble Supreme Court has observed that-

“Examination malpractices, academic fraud or cheating in the examination is as old as the examination itself. Study made by the



educationist has revealed that these malpractices are gradually on the rise across the world and has caused a threat to public trust in reliability and credibility to the system as a whole. These malpractices occur within and outside the examination halls and are perpetrated by the candidates, staff and other external agencies before, during and after the examination. Various kinds of strategies are innovated and then applied to enable the candidate to clear the examination anyhow. It has, therefore, destroyed the piousness of the examination. ”

15. I have heard learned counsel for the parties and perused the materials on record. From the investigation, it has revealed that father of the petitioner was in contact with the co-accused Shikandar Yadwendu and he forwarded the admit card of his son Ayush Kumar to co-accused Shikandar Yadwendu. The petitioner participated in the examination and he 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 petitioner has already been taken. The petitioner remained in custody for more than 08 months and detaining him 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 petitioner will abscond or tamper with the evidence. Accordingly, I am inclined to grant regular bail to the petitioner.

16. This application is, accordingly, allowed.

17. Let petitioner, abovenamed, 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 court of Exclusive Magistrate, CBI, Patna/ concerned court, in connection with RC No. 221/ 2024/ (E) 0006, with further conditions as enumerated hereinbelow :-

(1) The petitioner 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 petitioner 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 petitioner shall not intimidate and/ or influence the witnesses by inducement, fraud or



promise.

(4) The petitioner 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.

18. It is made clear that if the petitioner violates any of the conditions imposed upon him, the C.B.I. shall be at liberty to approach this Court for cancellation of bail.

(Anil Kumar Sinha, J)

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