

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

**CRM-M-13404-2023**

Date of Decision: 17.03.2023

Mandeep Singh

..... Petitioner

Versus

State of Haryana

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present: Mr. Gagandeep Singh, Advocate, for the petitioner.

Mr. B.S. Virk, Deputy Advocate General, Haryana.

**Rajesh Bhardwaj, J.**

The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.134, dated 14.02.2023 registered under Sections 66C, 66D of Information Technology Act, 2008, Sections 8(4) of Haryana Public Examination (Prevention of Unfair Means) Act, 2021 and Sections 120-B, 420 IPC (Section 201 IPC added subsequently), at Police Station Samalkha, District Panipat.

Adumbrated facts of the case are that secret information was received at Police Station Samalkha, Panipat that online paper for the post of TGT at Kendriya Vidyalaya is being conducted and Manbir Thind alongwith his accomplices has setup a lab at Amritsar for taking online paper. It was informed that Manbir Thind alongwith his accomplices for getting the online paper solved has taken money from different candidates. On the receipt of the secret information, raiding party was constituted and raid was conducted at Ten Spoon Hotel, Samalkha, Panipat. The raiding party found five boys in Room No.102 of the Hotel, who were having many laptops for solving papers. They were apprehended on the spot. Formal FIR

was registered and the investigation commenced. During the investigation, the co-accused made disclosure statement about the complicity of the petitioner i.e. Mandeep Singh, who was said to be working as IT Incharge in Satyam Lab at Amritsar and thus, he was also arrayed as an accused. Apprehending arrest, the petitioner approached the Court learned Additional Sessions Judge, Panipat praying for grant of anticipatory bail, however, after hearing both the sides, the learned Court declined the same vide order dated 03.03.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of anticipatory bail.

It has been contended by learned counsel for the petitioner that the petitioner has been falsely implicated in this case. He submits that the petitioner is not named in the FIR; however, he has been implicated in this case on the basis of the disclosure statement made by co-accused Manbir Thind, which is not admissible evidence. He submits that no incriminating evidence has been found against the petitioner to prove his complicity in the offence as alleged in the FIR. It is submitted that the petitioner is alleged to have installed free software in some computers in the Lab at Amritsar and 17 Laptops were recovered from the spot. It is submitted that said software is freely available, which can be downloaded and installed by anyone from the internet and thus, the same cannot be a ground for the involvement of the petitioner in the offence alleged. It is submitted that the Police party has already recovered laptops and computers and hence, no recovery is to be made from the petitioner and thus, no case for the custodial interrogation is made out. It is submitted that from the bare reading of statutory provisions of Sections 66-C and 66-D of the Information Technology Act, no offence can be said to have been committed by the petitioner in view of the

allegations made against him. It is submitted that in the facts and circumstances of the case, the petitioner deserves to be granted anticipatory bail.

Heard.

Apparently, the raid was conducted at the Hotel by the Police party on the basis of the secret information. During the raid, five accused were apprehended and 17 laptops, 10 chargers etc. were recovered by the Police party from the spot. During the investigation, complicity of the petitioner in the cyber offence came to the light and he was arrayed as an accused. It was found that he was working as IT Incharge in Satyam Lab at Amritsar and installed the software in the laptops recovered for the purpose of solving the TGT papers being conducted at Kendriya Vidhyalaya. It has been alleged that the petitioner in collusion with others was running a racket to solve TGT papers being conducted online. It is also alleged that recovery of Rs.9 lacs is to be made from the petitioner, which he has received from the various candidates appearing in the examination. The investigation is at threshold and the offence alleged is the cyber offence, which needs a thorough and fair investigation. Cyber offences of a nature of case in hand are on rise and seriously affecting the future of the meritorious candidates in the field of education. This Court by granting anticipatory bail to the petitioner cannot compromise the merit of the candidates required in the education field. The custody of the petitioner is required for free and fair investigation.

Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“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 favorable order under [Section 438](#) if the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering 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 disintering offences would not conduct themselves as offenders.”

The Hon’ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances.

Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner do not qualify for exercising the extraordinary power by this Court in their favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

17.03.2023  
sharmila

(RAJESH BHARDWAJ)  
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No