

# Ashish vs Central Bureau Of Investigation on 13 May, 2022

**Author: Anoop Kumar Mendiratta**

**Bench: Anoop Kumar Mendiratta**

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IN THE HIGH COURT OF DELHI AT NEW

DEL

Order reserved on: 05

Order delivered on: 13

+ BAIL APPLN. 143/2022

ASHISH

..... Petiti

Through: Mr.Mohit Mathur, Sr. Advocate  
Mr.Manoj Kohli, Advocate.

versus

CENTRAL BUREAU OF INVESTIGATION

..... Respo

Through: Mr. Anupam S. Sharrma, SPP wi  
Mr.Prakarsh Airan and Ms.Harp  
Kalsi, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA  
ORDER

ANOOP KUMAR MENDIRATTA, J.

1. This is an application under Section 438 Cr.PC filed on behalf of the petitioner seeking grant of anticipatory bail in case No. RC-DAI-2021-A- 0032 registered under Sections 420/467/120-B IPC read with Section 66D of the IT Act.

2. In brief, as per the case of prosecution, on the basis of source information, the present FIR/RC was registered, wherein it was stated that National Testing Agency (NTA), an autonomous testing organization is entrusted by the Government of India with the task of conducting free and fair examinations for admission to premier higher education institutions. One of such examinations is Joint Entrance Examination (Mains) conducted for admission to Undergraduate Engineering Programs (B.E/B. Tech). The fourth session of JEE (Mains), 2021 in Computer Based Test (CBT) was conducted on 26th, 27th, 31st August and 1st and 2nd September, 2021 at different centers located in major cities throughout the country and abroad.

It is further the case of prosecution that V. Mani Tripathi, Siddharth Krishna and Govind Vaarshney

were the directors/signatories of M/s Affinity Education Pvt. Ltd. having its office at NOIDA, Gautam Budh Nagar. Also one Ms. Seema was the counselor of admission for Delhi/NCR and Ms. Anjuman Dawoodani was the counselor of admission for Maharashtra. Both the abovementioned persons were assisting V. Mani Tripathi, Siddharth Krishna and Govind Varshenen in soliciting and managing admission in top NITs and reputed engineering colleges by adopting fraudulent means and unfair practices.

It is further alleged that Rs.10-15 lacs were being demanded from the parents of aspiring students for which they were asked to deposit Post Dated Cheques for an assured admission. The user ID and password of candidates appearing for examination were also collected for getting desired examination centers. The modus operandi was that above persons would arrange a solver sitting at remote location for solving the questions which were displayed on the computer terminal allotted to the candidates. The centre supervisor, who would access to the computer network, was also a part of fraudulent act.

The above persons are stated to have connived with the supervisor of JEE (Mains), 2021, Session-4 exam centres at Sonipat and made necessary arrangements for fraudulent practices. During investigation, 3-4 candidates alleged that were given solved question paper several hours prior to the exam and were taken to some flat at Rohini in the wee-hours and were given solved question papers to memorize, which came in the exam. The investigation team was led to Flat No. 546, Paradise Apartments, Sector-18, Rohini. The owner of the said flat disclosed that the same was rented to the petitioner Ashish and Sunil (a relative of Ashish) who were residents of Rohini. The owner of the flat further informed that he had requested one of his colleagues to help in renting out of the flat and she had contacted Alka Sharma, a property dealer of the locality and given her keys for purpose of renting the property. The petitioner and co-accused Sunil who were known to Alka Sharma took the flat on rent from her saying that a lady namely SI Priyanka Dagar, whose flat in the same apartment was under renovation, required the flat for a period of three months. SI Priyanka Dagar stated that the flat was under renovation and she had placed some of her articles in the said flat and thereafter removed the same. Both Alka Sharma as well as SI Priyanka Dagar stated that the flat remained in possession of the petitioner and co-accused Sunil. It is also the case of the prosecution that the petitioner and co-accused Sunil had helped the aspirants in memorizing the question papers and the identity of evidence has been withheld to maintain secrecy of investigation. The petitioner and co-accused Sunil are also stated to be operating online examination centres i.e. Genex Online Examination Centre and Impulse Online Exam Centre and are stated to have compromised various exams.

During the search conducted on 14.10.2021 at Paradise Apartments (residence of the petitioner and co-accused Sunil), several incriminating documents including list of candidates and the person who has brought the candidates to them for getting the papers cracked as well as electronic devices were seized. The accused are stated to be evading the process of law despite notice under Section 160 Cr.PC and notice under Section 41-A Cr.PC. In view of above, Non-Bailable Warrants are stated to have been issued against the petitioner and co-accused Sunil.

3. Learned senior counsel for the petitioner submits that no documents whatsoever connecting the petitioner with the flat had been seized by the investigating agency and there is no direct evidence in the shape of aspiring any students or parents of the student or assuring them for any undue benefit in the examination. The alleged recovery of incriminating material is stated to be not connected with the petitioner. It is also submitted that the petitioner is willing to join the investigation and has clean past antecedents.

4. On the other hand, the application has been vehemently opposed by learned SPP for CBI. The evidence collected during investigation, incriminating the accused is relied upon.

5. I have given considered thought to the contentions raised. At the outset, it may be observed that merely because CBI has initiated the process under Sections 82/83 Cr.PC despite the pendency of the anticipatory bail application before this Court does not bar the consideration of the application by this Court. It cannot be ignored that the only role which has been ascribed to the petitioner is regarding helping a student to memorize the questions. Petitioner had no substantive role in respect of the alluring the parents or taking any active part at the respective centers. Merely because the flat taken by SI Priyanka Dagar is stated to have been subsequently in possession of the petitioner cannot lead to an adverse presumption at this stage. The evidence can be duly collected after joining of the petitioner in the process of investigation.

Considering the fact that the petitioner has clean past antecedents and is not required in any other case, in the event of arrest, the petitioner be released on bail, subject to his furnishing a personal bond of the sum of Rs. One lac with one surety in the like amount to the satisfaction of the Investigating Officer/SHO concerned and subject to the following conditions:

(i) The petitioner/applicant shall provide his mobile number to the Investigating Officer (IO) concerned/SHO concerned/concerned trial court at the time of release, which shall be kept in working conditions at all times. The petitioner/applicant shall not switch-

off, or change the same without prior intimation during the period of his interim bail;

(ii) The petitioner/applicant shall not leave the NCT of Delhi without the prior permission of the concerned trial court;

(iii) The petitioner/applicant shall not indulge in any criminal activity or any illegal activities during the bail period; Further, the petitioner is directed to join the investigation, as and when directed.

The present bail application is accordingly disposed of (ANOOP KUMAR MENDIRATTA) JUDGE  
May 13, 2022/A