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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(109)

CRM-M-30225-2024

Date of decision: - 19.06.2024

Prabal Titus

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Kanwalvir Singh Kang, Advocate
for the petitioner.

Mr. N.S. Diwana, Sr. DAG, Punjab.

Mr. Deepak Singh Saini, Advocate
for respondents No.3-University.

VIKAS BAHL, J. (ORAL)

1. Present petition has been filed under Section 482 Cr.P.C. praying for issuance of direction to respondents No.1 and 2 to make adequate arrangements to transport the petitioner (in custody) in FIR No.39 dated 10.05.2024, registered under Sections 302 and 120-B IPC, at Police Station I.T. City, Mohali, from District Jail Rupnagar to Examination Centre, Amity University, Sector 82/A, SAS Nagar (Mohali) to enable the petitioner to undertake "Master of Laws L.L.M. (Corporate Laws) Final 2nd Semester Examination' scheduled from 20.06.2024 to 26.06.2024 at Amity University, Mohali. Further, a prayer has been made for setting aside the order dated 14.06.2024 passed by the Judicial



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Magistrate 1st Class, SAG Nagar in CRM-1136-2024 titled as Prabal Titus Vs. State of Punjab (Annexure P-10) wherein permission for transportation of petitioner to undertake examination has been denied.

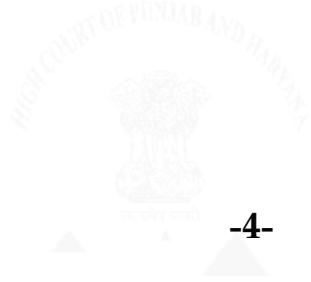
2. Learned counsel for the petitioner has submitted that the petitioner is 24 years of age and is a student of LLM, Final Year at Amity University, Mohali, Punjab and that he has been falsely implicated in FIR No.39 dated 10.05.2024, registered under Sections 302 and 120-B IPC, at Police Station Aerocity, Mohali. It is further submitted that the petitioner had voluntarily submitted himself before the police in the evening of 10.05.2024 and reference has been made to an email dated 10.05.2024 (Annexure P-2) sent by the petitioner to the police authorities prior to his appearing before Mohali Police and that on 16.05.2024, the petitioner was sent to judicial custody and is presently confined in Rupnagar Jail. It is also submitted that the petitioner had moved an application for preservation of vital electronic records such as CCTV footage of the incident and the Judicial Magistrate 1st Class, vide order dated 29.05.2024 was pleased to allow the said application and had directed preservation of all the vital electronic evidence and it is the case of the petitioner that the CCTV footage would help in showing that he is innocent. Learned counsel for the petitioner has further emphasized that the petitioner is an outstanding and meritorious student and has already completed LLB graduate course from Chandigarh University in the year 2023 with 8.01 CGPA out of 10 and has already completed his 1st Semester LLM (Corporate Laws) Exams from Amity University, Mohali and was



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studying in 2nd Semester (Final) LLM (Corporate Laws) from Amity University Mohali, Enrolment Number A26701823011, (LLM Academic Year 2023-2024) and the exams of the petitioner for the said semester had been notified to be held from 20.06.2024 to 26.06.2024. It is further stated that the petitioner was also the Class Representative of LLM (Corporate Laws). Learned counsel for the petitioner has referred to the date-sheet, the relevant portion of which has been reproduced in para 6 of the petition and has submitted that the petitioner is required to undertake four exams as have been detailed in para 6 of the petition. It is argued that the petitioner has done 25 courses from various Foreign Universities relevant to his legal studies and details of the same have been given in para 7 of the petition. It is further argued that in order to give the said exams, the petitioner had moved a detailed application dated 13.06.2024 (Annexure P-9) before the Judicial Magistrate 1st Class, SAS Nagar, Mohali, but the Judicial Magistrate 1st Class, Rupnagar vide order dated 14.06.2024 (Annexure P-10) had dismissed the said application primarily on the ground that the petitioner had not been able to place on record any 'Admit Card' issued by the Amity University, Mohali of the examination/roll number from where it could be ascertained that the petitioner had qualified all the conditions as specified by the concerned University in order to appear in the said exams. It is submitted that however liberty was granted to the petitioner to produce the admit card along with the application before the Jail Superintendent, Rupnagar, who could consider the same as per law and jail rules and a copy of the said



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order had been forwarded to the jail authorities. Learned counsel for the petitioner has referred to the letter dated 17.06.2024 (Annexure P-11) written to the Registrar, Amity University, Punjab, seeking a clarification to the effect that no admit card was required and the Enrollment ID card was sufficient for him to appear in the LLM (Corporate Law) 2nd Semester Final Examination. Reference has also been made to the response of the University dated 17.06.2024 (Annexure P-12), in which, it has been stated by the University that the University does not issue any separate Admit Card for appearing in the examination and that the student can appear in the examination by showing the student ID card which has already been issued by the University to the student. It is submitted that thus, the impugned order has been passed on a wrong premise. It is further submitted that in pursuance of the liberty granted in the impugned order, the petitioner had even moved an application before the Jail Authorities, vide email dated 17.06.2024 (Annexure P-13), but the Superintendent, District Jail, Rupnagar, vide reply dated 18.06.2024 addressed to the Judicial Magistrate 1st Class, Mohali had stated that the jail manual only permitted the petitioner to be provided the facilities for preparation of studies inside the jail premises and the jail Superintendent on his own could not send the applicant outside the jail for the purpose of his examination, at his own level and therefore, requested the Hon'ble Court to issue appropriate directions to enable the applicant to continue his education. It is stated that thus, left with no other alternative, the petitioner has filed the present petition and that it has been repeatedly



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held by various Courts that “Right to Life” is the compendious expression for all those rights which the Courts must enforce because they are basic to the dignified enjoyment of life and that the right to education flows directly from the right to life. In support of the said arguments, learned counsel for the petitioner has relied upon a judgment of the Division Bench of the Andhra Pradesh High Court in “*Mullipudi Mukunda Rao Vs. Sub-Inspector of Police and others, reported as 2003(5) SLR 769* as well as a judgment of the Delhi High Court in “*Benzi Takhellambam Vs. State*”, reported as 2019(2) JCC 1626.

3. Learned counsel appearing for the State has submitted that since the petitioner is involved in a case under Section 302 IPC, thus, the petitioner, if at all is permitted to give the exams, be taken in police custody and for the same, the petitioner be directed to pay adequate expenses. It is further submitted that any order passed by this Court should not be deemed to be an opinion on the merits of the criminal case.

4. Learned counsel appearing on behalf of respondent No.3-University has also reiterated the fact that in case the petitioner is to be allowed to give the above-said exams, which have been highlighted in the petition, then, the same should be done in police custody. It is submitted that in the email dated 17.06.2024, the respondent-University has clarified that no separate Admit Card for appearing in the examination was required and thus, in case the petitioner has the student ID card, the petitioner would be permitted to give the exams on the basis of the said ID Card.



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5. Learned counsel for the petitioner in rebuttal has fairly submitted that the petitioner would deposit Rs.75,000/- as expenses with respondent No.2 on or before 20.06.2024 and has prayed that the petitioner be permitted to give the said exams in police custody.

6. This Court has heard learned counsel for the parties and has perused the paper-book.

7. The Division Bench of the Andhra Pradesh High Court in ***Mullipudi Mukunda Rao's judgment (supra)***, after placing reliance on the judgment of Hon'ble Supreme Court in ***D.K. Basu Vs. State of W.B., reported as AIR 1997 Supreme Court 610***, had observed that the Hon'ble Supreme Court in the light of Article 21 of the Constitution had laid down the requirements to be followed in all cases of arrest and detention and in case one goes by these requirements or directions, then, the only conclusion that emerged was that the Hon'ble Supreme Court was very particular in ensuring safety, health, fundamental and human rights of the detained or arrested persons. The Division Bench further observed that there are occasions where people are arrested by police, who have to appear either in an examination or an interview seeking a job and on account of being in custody if they loose the chance, an irreparable loss may occur to them and since the Right to pursue education is a fundamental right, thus, it was directed that in case a person was in custody, then, it was the duty of the police concerned to make arrangements for such person to appear in the examination. The relevant portion of the said judgment is reproduced herein below: -



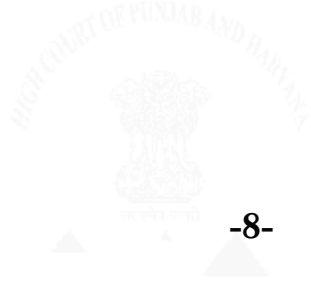
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“In D.K. Basu's case (D.. Basu Vs. State of W.B. AIR 1997 Supreme Court 610), the Supreme Court considered the whole gamut of the citizens in custody. Though it dealt in detail with custodial violence but it also dealt with protection of fundamental rights and human rights. The Supreme Court dealt in extensive with the fundamental rights and human rights of criminals/detenus vis-a-vis the duties of the police in the light of Article 21 of the Constitution and finally laid down the requirements to be followed in all cases of arrest and detention till legal provisions were made. These requirements are 11 in number and if one goes by these requirements or directives one comes to the only conclusion that the Supreme Court was very particular in ensuring safety, health, fundamental and human rights of the detained or arrested persons. In the factual circumstances of this case we envisage that there are occasions where people are arrested by police, on suspicion or committing crime, who have to appear either an examination or an interview seeking a job. Because of them being in custody if they loose the chance an irreparable loss may occur to them. Right to pursue education is a fundamental right. Therefore, we direct that in case a person is taken into custody and is in policy custody it shall be the duty of the Police concerned to make arrangements for such person to appear in the examination. Similarly, if a person has to appear for an interview for the purpose of securing a job it shall be again the duty of the police concerned to make arrangements for such detenu to appear before the Selection Committee. These directions will also apply to the Magistrates in case the detenus are in judicial custody.”

8. To the similar effect is the judgment of the Hon'ble Delhi High Court in **Benzi Takhellambam's (supra)**, in which also, the petitioner therein was permitted to take his exams while in custody.

9. The law laid down in the above-said judgments fully



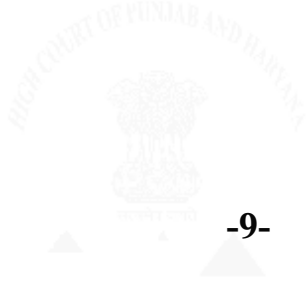
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supports the case of the present petitioner. A perusal of para 5 as well as para 7 of the petition would show that the petitioner has been a meritorious student and has already done LLB graduate course from Chandigarh University in the year 2023 with 8.01 CGPA out of 10 and has also done 25 courses from various Foreign Universities. It is the case of the petitioner that the petitioner himself had gone to the police on the evening of 10.05.2024 when the incident had taken place and has referred to Annexure P-2 in the said regard. An application was also filed by the petitioner before the Judicial Magistrate 1st Class, SAS Nagar, dated 13.06.2024 (Annexure P-9) seeking the relief which is being sought in the present petition. The Judicial Magistrate 1st Class, Mohali had rejected the same without considering the law on the point and by observing that the petitioner had failed to produce the Admit Card of the examination/roll number from where it could be ascertained that the petitioner has qualified all the conditions as specified by concerned University to appear in examination. The letter dated 17.06.2024 (Annexure P-11) as well as the email dated 17.06.2024 (Annexure P-12) written by the University to the petitioner clearly shows that there was no requirement for the issuance of a separate Admit Card and the petitioner could be permitted to appear by showing the Enrolment ID Card. The relevant portion of the said email dated 17.06.2024 (Annexure P-12) is reproduced herein below: -

“The information sought is as under: -

- *Amity University Punjab does not issue any separate Admit Card for appearing in the examination.*
- *The student can appear in the examination by showing the student ID Card which was already issued by the*



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University to the student.

- *The Date sheet mentioning the Date & Time regarding the End Semester Examination subjective (LL.M) has already been given to you by hand on 12-6-2024.”*

The said stand of the University has not been disputed before this Court.

10. The liberty granted in the impugned order to move an application before the Jail Superintendent, Rupnagar was also availed by the petitioner, but the same was not acceded to as is apparent from the letter dated 18.06.2024 written by the Jail Superintendent stating that at his own level, he could not send the applicant outside the jail for purposes of his examination and had requested the Hon'ble Court to issue necessary directions in the said regard.

11. The petitioner is required to give the following four exams as per his prayer: -

S.No.	Course Code	Subject	Exam Date & Time
1	LAW616	Mergers and Acquisitions	20.06.2024 from 10:15 a.m. to 11:10 a.m.
2	LAW618	Law relating to Cyber Space and E-Commerce	21.06.2024 from 10:15 a.m. to 11:10 a.m.
3	LAW613	Competition Law	25.06.2024 from 10:15 a.m. to 11:10 a.m.
4	LAW608	Law and Justice in Globalizing World	26.06.2024 from 10:15 a.m. to 11:10 a.m.

12. It has been fairly submitted on behalf of the petitioner that he is ready to pay the expenses for the same.

13. Keeping in view the above-said facts and circumstances, this Court is of the view that in case the petitioner is not permitted to give the said exams, then, the same would cause irreparable loss to the petitioner,



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inasmuch as, he will not be able to complete his LLM (Corporate Laws) and the same would jeopardize his future, therefore, the present petition is allowed and the impugned order dated 14.06.2024 is set aside with the following directions: -

- (i) Petitioner would deposit an amount of Rs.75,000/- in the appropriate account/place as per the directions of respondent No.2 on or before 20.06.2024.
- (ii) Respondent No.2 would depute adequate number of police personnel for taking the petitioner from District Jail Rupnagar to the Examination Centre at Amity University, Sector 82-A, SAS Nagar, Mohali on the days on which the four exams, the details of which have been given herein-above, are to be held. Since each of the four exams would be starting at 10.15 AM, the concerned police personnel would take the petitioner to the examination centre at a time so as to reach the examination centre by 09.15 AM so that the petitioner has adequate time to appear in the exams.
- (iii) After each exam is over, the police personnel, who have been deputed by respondent No.2, would take the petitioner back to the District Jail Rupnagar and the said process would be repeated for each of the four exams.
- (iv) Respondent No.3-University is directed to permit the petitioner to take the said four exams on the petitioner showing his Identity Card.



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- (iv) Respondent No.3-University is further directed to ensure that the police personnel accompanying the petitioner are allowed to sit in a place where the petitioner is visible to them through out the duration of the examination and even the concerned police personnel are directed to keep a strict vigil on the petitioner so that the petitioner does not escape.

June 19, 2024

naresh.k

**(VIKAS BAHL)
JUDGE**

Whether reasoned/speaking?

Yes

Whether reportable?

Yes