2024:DHC:9940

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on : 28th NOVEMBER, 2024**
Pronounced on: 23rd DECEMBER, 2024

\+ BAIL APPLN. 2828/2024

PUJA MANORAMA DILIP KHEDKAR .....Petitioner
Through: Ms. Bina Madhavan, Ms. Shreyasi, Mr. Shantanu Raj, Mr. Nimesh and Mr. Tridev Sagar, Advocates

versus

THE STATE OF NCT OF DELHI & ANR. ....Respondents
Through: Mr. Sanjeev Bhandari, ASC for the State with Ms. Charu Sharma, Mr. Arjit Sharma, Mr. Vaibhav Vats and Mr. Nikunj Bindal, Advocates for R-1
Mr. Naresh Kaushik, Senior Advocate with Mr. Vardhman Kaushik, Mr. Anand Singh, Mr. Vinay Kaushik and Ms. Pooja Thayat, Advocates for R/UPSC

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

J U D G M E N T

1. The instant application has been filed under Section 482 of the Bhartiya Nagrik Suraksha Sanhita (hereinafter as 'BNSS') read with Section 528 of the BNSS has been filed seeking the following reliefs:

> *"(i) Direct the release of the Applicant on anticipatory bail in the event of his arrest by the police in F.I.R No. 142 dated 19.07.2024 Under Section 420,464,465,471 of IPC, 66D of the IT Act and 89/91 of the Rights of Person with Disability Act 2016 P.S. Crime Branch; and*

(ii) Set-aside the Order dated 01.08.2024 passed by the Ld. Additional Sessions Judge, Patiala House Court in Bail Application No. 1110/2024; and
(iii) Pass any such other orders as maybe deemed fit and proper in the interest of justice."

2. The brief facts that are relevant to the present proceedings are set out as follows:

a) The applicant/petitioner in the present case is a recommended candidate in the Civil Services Examination (hereinafter as 'CSE'), 2022 and was allocated the Indian Administrative Services (hereinafter as 'IAS') and got assigned to the Maharashtra Cadre.

b) The complainant, i.e. the Union Public Service Commission (hereinafter as 'UPSC') is a Constitutional body entrusted to conduct various public services examinations for the All India Services including the coveted services such as IAS, IPS, IFS, IRS etc. through a common examination named CSE.

c) The applicant has been preparing for the said examination since the year 2012 by indicating her name as 'Khedkar Puja DeelipRao' for the first 9 attempts. During the course of appearing for the said attempts, she posed herself as an OBC (non-creamy layer) candidate, except in CSE-2013 where she claimed herself to be a General Category candidate.

d) In the year 2018, the applicant claimed herself as a candidate belonging to Persons with Benchmark Disabilities

(hereinafter as 'PwBD') category in the sub-category of Visual Impairment, along with the OBC-non-creamy layer.

e) Pursuant to several complaints received by the UPSC, an FIR bearing no. 142/2024 under Sections 420, 464, 465, 471 of the Indian Penal Code (hereinafter as 'IPC') read with Section 66D of the Information Technology Act, 2000 and 89/91 of the Rights of person with Disability Act, 2016 was registered on 19th July, 2024 at PS - Crime Branch, New Delhi.

f) As per the allegations of the UPSC/complainant, despite exhausting all the attempts available to her, the applicant/petitioner appeared in CSE-2021 by circumventing the scrutiny pertaining to excess attempts made by her. The details of such tactics is as under:

- Change in name from 'Khedkar Puja DeelipRao' to 'Puja ManoramaDilipKhedkar'.
- Wrong details in the Detailed Application form-I (hereinafter as 'DAF-I') regarding the number of attempts made by the applicant.
- Introduction of disability in the year 2018 and change in the status of disability in the year 2021 by adding multiple disabilities.

g) After lodging of the said FIR, the Ministry of Personnel, Public Grievances, and Pensions (hereinafter as 'DoPT') issued a show cause notice bearing no. 14012/02/2024 AIS-

III, asking for reasons as to why she should not be discharged from the services under the relevant rules of the IAS Probation Rules, 1954.

h) Thereafter, the UPSC released a press note dated 31st July, 2024, thereby, cancelling the provisional candidature of the applicant from CSE-2022 and permanently debarring her from any future UPSC examinations.

i) Apprehending her arrest in the said FIR, the applicant approached the learned District and Sessions Judge, Patiala House (hereinafter as 'learned Court below') seeking anticipatory bail, however, the same was dismissed *vide* order dated 8th August, 2024.

j) Aggrieved by the same, the applicant has approached this Court seeking anticipatory bail.

3. Ms. Bina Madhavan, learned counsel for the applicant submitted that the applicant was a recommended candidate in the CSE-2022 under the category of PwBD and had attempted the 5th time out of the 9th attempts available to a candidate under such category, therefore, the allegations against her are baseless and without any merit.

4. It is submitted that the CSE Rules, 2022 clearly mention that the attempts are for each category and there is no misrepresentation or cheating as alleged to attract the ingredients of the provisions under which the FIR has been lodged against the applicant.

5. It is submitted that the allegations raised in the FIR are completely baseless as the documents supplied by the applicant were duly issued by the competent Government Authorities.

6. On the aspect of exceeding the number of attempts available to a candidate, the learned counsel submitted that the Rule 3 of CSE Rules, 2022 clearly provides for 9 attempts to a candidate under the OBC + PwBD category, therefore, the applicant had rightly mentioned the number of attempts availed in the said category.

7. It is submitted that the applicant had applied for a change in her name to add her mother's name 'Manorama' and the same was done legally through a Gazette Notification issued in March, 2021. It is further submitted that the applicant had duly provided the details of the same to the UPSC/complainant, therefore, the allegations of forgery are not credible and unsubstantiated.

8. It is submitted that the applicant has been suffering majorly from various disabilities namely low vision, mental illness and locomotive disability, and two separate certificates certifying the same were issued by the District Authority in this regard. On the said aspect, the learned counsel for the applicant also contended that the applicant was allowed to appear in the personality test by the UPSC/complainant *vide* order dated 10th March, 2022 FNo. 1/23/2023-E.III.

9. It is submitted that the candidature of the applicant has been cancelled by the UPSC *vide* order dated 31st July, 2024, however, no opportunity to defend the allegations were provided to the applicant, therefore, a separate petition has been filed before the Central Administrative Tribunal (hereinafter as 'CAT') for which pre-arrest bail needs to be granted to the applicant to effectively pursue the said case.

10. Learned counsel further submitted that the genesis of the FIR registered against the applicant is the non-subservience to the immediate senior in the Pune Collectorate which led to the complaint against her to the Chief Secretary, Maharashtra for appropriate action to be taken against her.

11. It is therefore submitted that the applicant may be granted anticipatory bail as her custody is not required to investigate the allegations. Accordingly, it is prayed that the instant application may be allowed.

12. *Per Contra*, Mr. Sanjeev Bhandari, learned ASC appearing for the State vehemently opposed the instant application submitting to the effect that the applicant had already exhausted all the attempts available to a OBC (non-creamy layer) category by the year 2020 and she changed her name thereafter to manipulate the system.

13. It is submitted that the petitioner/applicant had made false declarations regarding the number of attempts made by her in the past and also rearranged her parents name along with changing her name to evade the scrutiny.

14. Learned ASC also submitted that the applicant/petitioner is also not eligible to avail benefits under OBC (non-creamy layer category) and she hatched a well planned conspiracy to get the benefit as a candidate belonging to the said category.

15. It is submitted that the claim of the petitioner regarding the marital status of her parents is also wrong as the investigation has revealed that her parents live together and the same is proved by the CDR where location of both her parents is same most of the time.

16. It is submitted that the petitioner had changed her name only to appear for the CSE examination and no change was ever requested for documents such as

Passport, Bank Accounts, therefore, clearly establishing the *malafide* intention to change the name.

17. It is submitted that the conspiracy created by the petitioner not only affected the State but also the genuine candidates who were bereft of a seat in the services due to the fraudulent activities of the petitioner.

18. In view of the foregoing submissions, the learned ASC prayed that the present application may be dismissed as petitioner's custodial interrogation is required to reveal the true nature of fraud committed by her.

19. Thereafter, Mr. Naresh Kaushik, learned senior counsel appearing, on instructions, on behalf of the complainant/UPSC submitted that the gravity of the fraud committed by the petitioner is unprecedented in nature as the same has not only been committed against the UPSC but also against the public at large.

20. It is submitted that the illegal means employed by the petitioner to misuse and abuse the administrative process could not have been achieved without the assistance and help of several individuals whose names are required to be unearthed during the custodial interrogation.

21. It is submitted that the petitioner deceitfully mentioned the wrong information about the attempts made by her in the CSE and also supplemented the said claim by changing her *bonafides* such as names, parents name etc.

22. It is submitted that the CSE Rules put a maximum cap of 9 attempts, however, the applicant circumvented the scrutiny by changing her name. On the same aspect, the learned senior counsel also submitted that the applicant did not change her name till the time she exhausted all 5 attempts available to her, but suddenly did so by claiming herself to be living with her single mother.

23. It is submitted that in the year 2019, the petitioner had duly mentioned the number of attempts availed by her as 8, but provided wrong information to the

UPSC in the attempts made subsequently i.e., in the year 2021 and 2022 and the same leads to an inescapable conclusion that she had ill motive of deliberately misleading and cheating the UPSC for unlawful gain at the cost of genuinely deserving candidates.

24. The learned senior counsel also submitted that the status of her disability changed over the years where the petitioner first claimed herself to be a PwBD candidate in the year 2018, but changed its sub-category in the year 2021. In this regard, the learned senior counsel apprised the Court that despite several communications, the petitioner failed to appear before the medical board constituted to assess her disability and appeared for the first time only in the year 2022.

25. It is submitted that the petitioner's enlargement on a pre-arrest bail would hamper the process of investigation as the collection of useful information and materials would be impeded if the petitioner is let free without any restrictions.

26. It is submitted that the petitioner/accused is already at an advantageous position to be in cahoots with the other individuals and same speaks volume of the kind of influence she has been able to yield even without being part of the system, therefore, it is submitted that the present petition may be dismissed.

27. Heard the learned counsel for the parties and perused the material available on record.

28. The present petition has been filed by Ms. Puja Manorama Dilip Khedkar to seek anticipatory bail on the apprehensions of arrest by the Police in relation to an FIR lodged against her by the Crime Branch, Delhi Police.

29. The crux of the allegations against the petitioner herein is that she duped the complainant/UPSC by manipulating the system by changing her name, her parents name, filing fraudulent details and concealment of the true details to the

complainant. Apart from the said allegations, it is also alleged that the petitioner had obtained disability certificates fraudulently with the help of unknown officials of the Government.

30. As per the contentions of the learned counsel for the State, the above said allegations are backed by the evidence collected by the investigative agency, whereby, it is found that the petitioner had defrauded the UPSC by submitting fake details regarding the marital status of her parents due to which she got eligible for a seat under OBC (non-creamy layer) category.

31. The above said allegations have been defended by the learned counsel for the petitioner by asserting that the petitioner did not conceal any information rather duly provided the details about the number of attempts made by her in the CSE as per her eligibility after being diagnosed with the benchmark disability and therefore, the petitioner has done no wrong and ought to be protected from arrest.

32. Before delving into the merits of the case at hand, this Court deems it appropriate to first discuss the principle behind grant of pre-arrest bail to an accused. The said relief is provided for under Section 438 of the Code of Criminal Procedure, 1973 (similar to Section 482 of BNSS) which reads as under:

> *"**438. Direction for grant of bail to person apprehending arrest.**—(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail. (2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit,*

> *including— (i) a condition that the person shall make himself available for interrogation by a police officer as and when required; (ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; (iii) a condition that the person shall not leave India without the previous permission of the Court; (iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section. (3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail; and if a Magistrate taking cognizance of such offence decides that a warrant should be issued in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1). 2 [(4) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB of the Indian Penal Code (45 of 1860).]"*

33. The above said provision is subjected to interpretation by the various Courts of the country and it is trite to say that the law regarding the grant of anticipatory bail is settled now.

34. In ***Gurbaksh Singh Sibbia v. State of Punjab,***[1] the Hon'ble Supreme court laid down the guidelines for the Courts to take into consideration while granting an anticipatory bail. The relevant parts of the said judgment read as under:

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[1]**(1980) 2 SCC 565**

*"**31.** In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh [AIR 1962 SC 253 : (1962) 3 SCR 622 : (1962) 1 Cri LJ 216] , which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.*

32. *A word of caution may perhaps be necessary in the evaluation of the consideration whether the applicant is likely to abscond. There can be no presumption that the wealthy and the mighty will submit themselves to trial and that the humble and the poor will run away from the course of justice, any more than there can be a presumption that the former are not likely to commit a crime and the latter are more likely to commit it. In his charge to the grand jury at Salisbury Assizes, 1899 (to which Krishna Iyer, J. has referred in Gudikanti [(1978) 1 SCC 240 : 1978 SCC (Cri) 115]), Lord Russel of Killowen said: (SCC p. 243, para 5)*

"... it was the duty of Magistrates to admit accused persons to bail, wherever practicable, unless there were strong grounds for supposing that such persons would not appear to take their trial. It was not the poorer classes who did not appear, for their circumstances were such as to tie them to the place where they carried on their work. They had not the golden wings with which to fly from justice."

This, incidentally, will serve to show how no hard and fast rules can be laid down in discretionary matters like the grant or refusal of bail, whether anticipatory or otherwise. No such rules can be laid down for the simple reason that a circumstance which, in a given case, turns out to be conclusive, may have no more than ordinary signification in another case.

33. *We would, therefore, prefer to leave the High Court and the Court of Session to exercise their jurisdiction under Section 438 by a wise and careful use of their discretion which, by their long training and experience, they are ideally suited to do. The ends of justice will be better served by trusting these courts to act objectively and in consonance with principles governing the grant of bail which are recognised over the years, than by divesting them of their discretion which the legislature has conferred upon them, by laying down inflexible rules of general application. It is customary, almost chronic, to take a statute as one finds it on the ground that, after all, "the legislature in its wisdom" has thought it fit to use a particular expression. A convention*

may usefully grow whereby the High Court and the Court of Session may be trusted to exercise their discretionary powers in their wisdom, especially when the discretion is entrusted to their care by the legislature in its wisdom. If they err, they are liable to be corrected.

34. *This should be the end of the matter, but it is necessary to clarify a few points which have given rise to certain misgivings.*

35. *Section 438(1) of the Code lays down a condition which has to be satisfied before anticipatory bail can be granted. The applicant must show that he has "reason to believe" that he may be arrested for a non-bailable offence. The use of the expression "reason to believe" shows that the belief that the applicant may be so arrested must be founded on reasonable grounds. Mere 'fear' is not 'belief", for which reason it is not enough for the applicant to show that he has some sort of a vague apprehension that some one is going to make an accusation against him, in pursuance of which he may be arrested. The grounds on which the belief of the applicant is based that he may be arrested for a non-bailable offence, must be capable of being examined by the court objectively, because it is then alone that the court can determine whether the applicant has reason to believe that he may be so arrested. Section 438(1), therefore, cannot be invoked on the basis of vague and general allegations, as if to arm oneself in perpetuity against a possible arrest. Otherwise, the number of applications for anticipatory bail will be as large as, at any rate, the adult populace. Anticipatory bail is a device to secure the individuals liberty; it is neither a passport to the commission of crimes nor a shield against any and all kinds of accusations, likely or unlikely.*

36. *Secondly, if an application for anticipatory bail is made to the High Court or the Court of Session it must apply its own mind to the question and decide whether a case has been made out for granting such relief. It cannot leave the question for the decision of the Magistrate concerned under*

Section 437 of the Code, as and when an occasion arises. Such a course will defeat the very object of Section 438.

37. *Thirdly, the filing of a first information report is not a condition precedent to the exercise of the power under Section 438. The imminence of a likely arrest founded on a reasonable belief can be shown to exist even if an FIR is not yet filed.*

38. *Fourthly, anticipatory bail can be granted even after an FIR is filed, so long as the applicant has not been arrested.*

39. *Fifthly, the provisions of Section 438 cannot be invoked after the arrest of the accused. The grant of "anticipatory bail" to an accused who is under arrest involves a contradiction in terms, insofar as the offence or offences for which he is arrested, are concerned. After arrest, the accused must seek his remedy under Section 437 or Section 439 of the Code, if he wants to be released on bail in respect of the offence or offences for which he is arrested*

40. *We have said that there is one proposition formulated by the High Court with which we are inclined to agree. That is proposition (2). We agree that a 'blanket order' of anticipatory bail should not generally be passed. This flows from the very language of the section which, as discussed above, requires the applicant to show that he has "reason to believe" that he may be arrested. A belief can be said to be founded on reasonable grounds only if there is something tangible to go by on the basis of which it can be said that the applicant's apprehension that he may be arrested is genuine. That is why, normally, a direction should not issue under Section 438(1) to the effect that the applicant shall be released on bail "whenever arrested for whichever offence whatsoever". That is what is meant by a 'blanket order' of anticipatory bail, an order which serves as a blanket to cover or protect any and every kind of allegedly unlawful activity, in fact any eventuality, likely or unlikely regarding which, no concrete information can possibly be had. The rationale of a direction under Section 438(1) is the belief of the applicant founded on reasonable grounds that he may be arrested for a non-bailable offence. It is unrealistic to expect*

> *the applicant to draw up his application with the meticulousness of a pleading in a civil case and such is not requirement of the section. But specific events and facts must be disclosed by the applicant in order to enable the court to judge of the reasonableness of his belief, the existence of which is the sine qua non of the exercise of power conferred by the section.*
>
> ***41.*** *Apart from the fact that the very language of the statute compels this construction, there is an important principle involved in the insistence that facts, on the basis of which a direction under Section 438(1) is sought, must be clear and specific, not vague and general. It is only by the observance of that principle that a possible conflict between the right of an individual to his liberty and the right of the police to investigate into crimes reported to them can be avoided. A blanket order of anticipatory bail is bound to cause serious interference with both the right and the duty of the police in the matter of investigation because, regardless of what kind of offence is alleged to have been committed by the applicant and when, an order of bail which comprehends allegedly unlawful activity of any description whatsoever, will prevent the police from arresting the applicant even if he commits, say, a murder in the presence of the public. Such an order can then become a charter of lawlessness and a weapon to stifle prompt investigation into offences which could not possibly be predicated when the order was passed. Therefore, the court which grants anticipatory bail must take care to specify the offence or offences in respect of which alone the order will be effective. The power should not be exercised in a vacuum."*

The above said principles were reiterated by the five judge bench of the Hon'ble Supreme Court in the case of ***Sushila Aggarwal v. State (NCT of Delhi),***[2] whereby, the Hon'ble Court discussed the principles regarding grant of the anticipatory bail in detail.

[2] **(2020) 5 SCC 1**

35. The above said judicial dicta clarifies that the Courts are duty bound to adhere to the principles. Therefore, the position of law requires the Courts to apply its mind as per the factual scenario and adjudicate the application for grant of the anticipatory bail in consonance with the law laid down by the Hon'ble Supreme Court.

36. One of the important factors while granting an anticipatory bail is whether there is a possibility of collecting incriminating evidence from a person and if their custody is necessary for the same.

37. In the instant case, the applicant has approached this Court after apprehending arrest in relation to the FIR 142/2024 registered by the Crime Branch, Delhi Police on the complaint made by the UPSC.

38. As per the contentions advanced by the learned counsel for the petitioner/applicant, the main allegation on which the said FIR is based is the fraud alleged to be committed by the petitioner by changing her name to manipulate the complainant's system, however, the petitioner's counsel has defended the said allegation by stating that the change in her name is done due to the marital status of her parents and the learned counsel for the petitioner has supplemented the same by contending that her parents were divorced in the year 2010 and she has been residing with her mother since then.

39. For the sake of argument, even if this Court agrees with the said contention, the material placed on record depicts the contrary and clearly establishes that the petitioner had ulterior motive to change her name and same has nothing to do with the marital status of her parents.

40. In order to reach this conclusion, this Court has perused the records such as affidavits filed by the father of the petitioner while furnishing his details to the electoral board, absence of any information about the change in his marital

status to his place of employment i.e. Maharashtra Pollution Control Board, CDR received from the investigative agencies which clearly establishes that the parents were still living together.

41. Furthermore, the mother of the petitioner was elected as the *sarpanch* of Bhalegaon, Pune, Maharashtra for the period of 2017-2022 and had declared herself to be married to petitioner's father i.e. Dilip Khedkar. It is pertinent to mention here that the above said declaration has been made post the alleged divorce, i.e., in the year 2010.

42. This Court has also perused the e-mail sent by the petitioner to the complainant/UPSC, whereby, it has been stated that her parents were divorced in the year 2003 and not 2010.

43. During the course of arguments, the learned counsel for the State also apprised this Court that prior to her selection in CSE, 2022, the petitioner had joined Sports Authority of India (hereinafter as 'SAI') as an Assistant Director in the same year, and she had used her old name, i.e., Puja Dilip Khedkar instead of the new name.

44. In the details provided to the SAI, she had duly stated that she lives with both her parents at the address 112, National Housing Society, Aundh, Pune, Maharashtra which is contrary to the details submitted to the complainant UPSC.

45. On said aspect, at last, this Court also deems it appropriate to comment on the aspect of no change of name in the other documents. As per the relevant material, the petitioner did not change her name neither in the passport, nor in the Bank Accounts in her name. The above said documents related to the petitioner herself defies the contentions advanced by her counsel and this Court

is of the considerate view that the change in the name has nothing to do with the alleged change in the marital status of the petitioner's parents.

46. Therefore, this Court does not agree with the contention advanced by the learned counsel for the petitioner as the documents provided by the respondent State as well as her own affidavits filed before the other agencies clearly hints towards a well-planned conspiracy to dupe the complainant.

47. Now coming to the other contention with regard to the allegations of forgery. It is the case of the complainant/UPSC that the petitioner had provided wrong details about the number of attempts made by her and also placed on record a chart showing the same. For convenience, this Court deems it appropriate to reproduce the said chart herein:

Year	**Name**	**Father's Name**	**Mother's Name**	**No. of previous attempts**
2020	Khedkar Puja Deeliprao	Khedkar Deeprao K	Budhwant Manorama J	8
2021	Puja Manorama Dilip Khedkar	Dilip Khedkar	Manorama Budhwant	3
2022	Puja Manorama Dilip Khedkar	Dilip Khedkar	Manorama Budhwant	4
2023	Puja Manorama Dilip Khedkar	Dilip Khedkar	Manorama Budhwant	5

48. As evident, the petitioner had provided wrong details about the number of attempts in various DAF-1 forms filled in different years.

49. The above said allegations has been defended by the learned counsel for the petitioner by stating that the interpretation of the relevant rules of the CSE mandates 9 attempts to a person belonging to PwBD and since the petitioner had discovered the said disability only in the year 2018, she is lawfully eligible to appear for 9 more times. The rule cited by the learned counsel for the petitioner reads as under:

> *ii. Allegation regarding Number of Attempts*
> *In so far as the attempts are concerned, Rule 3 of the CSE Pg 116-140 @ pg 118 read as follows:*
>
> ……
>
> Number of attempts
>
> "*3. Every candidate appearing at the examination who is otherwise eligible, shall be permitted six (6) attempts at the CSE. However, relaxation in the number of attempts will be available to the SC/ST/OBC and PwBD category candidates who are otherwise eligible. The number of attempts available to such candidates as per relaxation is as under:*

	Category to which the Candidate Belongs		
	SC/ST	*OBC*	*PwBD*
Name of attempts	*Unlimited*	*09*	*09 for GL/EWS/OBC Unlimited for SC/ ST*

> ***Note-I** : The terms – GL for General, EWS for Economically Weaker Sections, SC for Scheduled Castes, ST for Scheduled Tribes, OBC for Other Backward Classes and PwBD for*

Persons with Benchmark Disability – are used for denoting the categories of candidates taking an attempt at the Examination.

***Note-II**: An attempt at a Preliminary Examination shall be deemed to be an attempt at the Civil Services Examination."*

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50. Upon perusal of the said rule, even though it is true that a person belonging to OBC (non-creamy layer) + PwBD is eligible for a maximum number of 9 attempts, it cannot be said that the candidate shall be eligible for additional 9 attempts.

51. The plain interpretation of the said rule clearly establishes that a person belonging to the above said category is only eligible for maximum 9 attempts and not additional, therefore, the argument advanced by the learned counsel for the petitioner is misplaced in this regard.

52. Therefore, even if an aspirant discovers a disability during the course of their preparation for the CSE, the number of attempts shall increase, but not more than 9 in total.

53. Another claim vehemently argued by the learned counsel for the petitioner is with regard to her disability. As per the certificates issued by the District Authority, the petitioner is suffering from low vision, mental illness and locomotive disability, however, the petitioner did not appear before the medical board for a long time and only appeared for the first time in the year 2022.

54. Even though the authenticity of the disability certificates issued by the District Authority is doubted, this Court does not wish to comment on the same,

but is also of the opinion that the officials involved in issuance of the same were somehow involved in the entire process of manipulating the system.

55. Since the present application has been filed for grant of pre-arrest bail, it would not be appropriate for this Court to deal with the authenticity of the said documents, however, this Court cannot ignore the apprehensions of the respondent State and complainant/UPSC.

56. The above said apprehensions on part of the respondent State as well as the complainant UPSC backed with the evidence clearly establishes the influence exerted by the petitioner and her family over the Government officials and institutions.

57. The material on record clearly shows that the petitioner has deep rooted connections in the Government Department which can hamper the course of investigation if she is granted anticipatory bail.

58. The learned counsel for the State also referred to the Status report which depicts that the petitioner had also submitted wrong details about her family income in order to get benefits of the OBC (non-creamy layer).

59. As per the rules, a candidate belonging to said category must show an income below Rs. 8 Lakhs and the petitioner herein had mentioned her family income as Rs. 6 Lakhs (mother's income) and had not mentioned anything about the income of her father as she has claimed to reside with her mother and does not have anything to do with her father, however, the documents submitted by her father makes it clear that the said claim is also untrue and her parents are living together with the petitioner.

60. The material placed on record by the State reveals that the petitioner's family owns 23 pieces of immovable property as well as 12 vehicles registered in their name. The petitioner herself has 3 luxury cars in her name (namely

BMW, Mercedes and Mahindra Thar) which is not possible with a meager family income of Rs. 6,00,000/- per annum.

61. Therefore, this Court is of the view that the said concealment of the income has also been done in furtherance of a larger conspiracy to get benefits out of a scheme solely meant for people below a certain income limit.

62. As discussed earlier, the provision of pre-arrest bail has been provided in order to safeguard the liberty of an individual and to protect them from undue harassment by the investigative agencies.

63. The ***Sibia* (*supra*)** case clearly laid down the conditions for grant of such a relief to a person against whom an FIR has been lodged, and it is not in dispute that an individual is duly entitled for such relief if the conditions enumerated by the various judgments of the Hon'ble Supreme Court are met.

64. In the instant case, it is *prima facie* established that the conduct of the petitioner has been solely driven with the motive to dupe the complainant UPSC and all the documents allegedly forged by her were done in order to reap benefits out of schemes introduced for the disadvantageous groups in the society.

65. The investigation in the present case, as per the material available on record, *prima facie*, reveals that the petitioner is not a fit candidate to avail the benefits meant for the disadvantageous groups and she has been availing the same by forging the documents prepared in cahoots with unknown individuals in the Government or outside.

66. Apart from owning luxury cars and various properties, the family of the petitioner i.e., the father and mother have held high positions in the executive. Therefore, there is a high possibility that the family members have colluded

with the unknown powerful persons in order to get the requisite certificates produced by the petitioner.

67. In ***CBI v. Anil Sharma***[3] the Hon'ble Supreme Court categorically held that success in an interrogation would be reduced if a person is enlarged on pre-arrest bail.

68. The above said dictum has been reiterated by this Court and several other Courts time and again and therefore, this Court is privy to the fact that the interrogation of a person accused in an offence of such a nature is required in order to unearth the fraud committed with the help of a larger number of people.

69. In view of the foregoing discussions, this Court is of the opinion that the steps taken by the petitioner were part of a larger conspiracy to manipulate the system and the investigation in this regard would be impacted if she is granted anticipatory bail.

70. The UPSC CSE examination is considered as one of the most prestigious examinations in the world and a large number of people appear for the said examination and do hard labour to secure a seat in the coveted All India Services.

71. It is a known fact that lakhs of students/aspirants prepare for the said exam and put in a number of years in order to succeed. The fraudulent tactics adopted by the petitioner not only demoralizes the well deserving candidates but also raises questions about the authenticity of the exam conducting agency and is a threat to the backbone of the Country.

72. The present incident is a classic example of fraud committed not only with a constitutional body but the society at large and necessary interrogation is

[3] **(1997) 7 SCC 187**

warranted to reveal all the aspects and attributes related to the said fraud committed against the nation.

73. In view thereof, this Court deems it appropriate to dismiss the present application filed for grant of anticipatory bail as this Court is *prima facie* satisfied that a strong case is made out against the petitioner and the said conduct is part of a larger conspiracy which can only be revealed if the investigative agency is given the due opportunity to apprehend the petitioner and investigate the case without there being any chance to hamper the witnesses and the evidence.

74. Accordingly, the instant anticipatory bail is dismissed and the interim protection granted by the predecessor Bench of this Court is vacated.

75. Pending applications, if any, stand disposed of.

76. It is made clear that this Court has not dealt with the merits of the case and restricted itself with regard to the question of whether anticipatory bail can be granted to the petitioner or not. The observations made hereinabove shall nowhere affect the merits of the case during trial.

77. The judgment be uploaded on the website forthwith.

(CHANDRA DHARI SINGH)
JUDGE

DECEMBER 23, 2024
Rt/av/ryp

Click here to check corrigendum, if any