

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 1510 Of 2015.

Pratik Ramnivas Agrawal :: Applicant.

V e r s u s

The State of Maharashtra. :: Respondent.

Appearance =>

Mr. A.S. Shejwal, Advocate for the Applicant.

Mr. U.H. Bhogale, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 1st April, 2015.

Per Court :-

This is an application under Section 439 of the Code of Criminal Procedure for grant of bail.

[2] The applicant is arrested in connection with CR No.I 28 Of 2013 registered with Police Station, Jinsi, Aurangabad for the offences punishable under Section/s 420 read with 34 of the Indian Penal Code.

[3] The First Information Report was lodged by Dr. Krushnkumar Vedparkash Sharma on 14th March, 2013. On the basis of said F.I.R., CR No.I 28 Of 2013 for offences punishable under

Section/s 420 read with 34 of the Indian Penal Code was registered against the present Applicant and one Deepak Vishwanath Chatterji.

By the said First Information Report, First-Informant averred that, he is having his Hospital at Manjit-Nagar at Aurangabad. His son Kashish Sharma has completed his education in Medical Science – M.B.B.S. at Peoples College, Bhopal.

[4] On 15th May, 2012 he came across one Advertisement in daily newspaper - Times Of India, Delhi in respect of taking of admission for the year 2013 for M.B.B.S., B.D.S., M.D., M.S., M.D.S. In the said Advertisement e.mail address and telephone numbers were given. The First-Informant gave a call on mobile number, as mentioned in the Advertisement. The said telephone call of the First-Informant was answered by the present applicant. The present applicant disclosed to the First-Informant that one seat in M.S. (Orthopedic) is available at S.J. Shetty Medical College at Manglore. It was pointed out to the First-Informant that, he will have to give donation of Rs.70 Lakhs in cash and college fees of Rs. 5 Lakhs, which is to be paid by demand draft. Accordingly, the First-Informant took demand draft of Rs.5 Lakhs. Thereafter he alongwith his son – Kashis went to Manglore at S.J. Shetty Medical College. That time, present applicant met them. Present applicant then introduced the First-Informant with co-accused – Deepak Chatterji. The demand draft of Rs. 5 Lakhs was handed over to co-accused – Deepak Chatterji.

[5] Thereafter, present applicant and co-accused – Deepak Chatterji took the First-Informant to one Hotel and disclosed that they

will obtain the eligibility certificate from Benglore and for that purpose, the First-Informant will require to pay Rs.50 Lakhs. That time, the First-Informant gave Rs. 20 Lakhs in cash, which was with him. Thereafter, co-accused on one chit gave acknowledgment for such payment.

[6] The First Information Report further states that, applicant had been to the place of First-Informant at Aurangabad and obtained Rs.30 Lakhs in cash. Present applicant thereafter gave acknowledgment on the receipt, which was given by co-accused – Deepak Chatterji. Further Rs. 7 Lakhs were taken by present applicant on 28th June, 2012. The First-Informant further states that, he was called in the office of present applicant and co-accused at New Delhi on 9th July, 2012 and that time, the applicant and co-accused took Rs. 13 Lakhs from him.

[7] The First Information Report further proceeds that thereafter present applicant took Notification from the Internet in respect of Rajiv Gandhi University, Karnataka and informed that admission process is postponed and asked the First-Informant that they will visit at Manglore on latter date.

[8] The First Information Report further states that thereafter First-Informant tried to contact the applicant and the co-accused however, got evasive reply. On 5th August, 2012 when First-Informant alongwith his son had been to Manglore that time, neither applicant nor the co-accused met them. Thereafter, First-Informant got message that the work of admission was not successful, therefore, co-accused

gave four cheques for Rs.70 Lakhs to the First-Informant. However, when those cheques were deposited with the bank for encashment, those were dishonoured for want of sufficient funds.

[9] The applicant was absconding. Therefore, the Investigating Officer was required to file charge-sheet against the present applicant under Section 299 of the Code of Criminal Procedure on 13th August, 2014.

[10] From the investigation papers, it is clear that the applicant was not found at his place at Mumbai on the address which was given by the applicant. The applicant was arrested on 11th January, 2015 and from 15/01/2015, he is in Magisterial Custody Remand.

[11] The application for bail was rejected by the learned Magistrate therefore, application was moved before the learned Sessions Judge. The learned Additional Sessions Judge vide his order dated 11th February, 2015 has rejected the said Bail Application.

[12] I have heard Mr. A.S. Shejwal, learned counsel for the Applicant and Mr. U.H. Bhogale, learned Additional Public Prosecutor for the State of Maharashtra.

[13] From the First Information Report, specific role is ascribed to the present applicant. Right from the beginning, the applicant and co-accused were on the mission to dupe the person like First-Informant by accepting cash amount, for getting the admission of his ward in a reputed medical college. It was well within the knowledge

of present applicant that he has no authority for the admission however, by making false promises and allurements the applicant has induced the First-Informant to part with the huge amount.

[14] Further, it is clear that the applicant has received huge amount and has given acknowledgment in token of receipt of huge cash amount from the First-Informant.

[15] The court below has observed in its order that, the applicant is a habitual offender. The court has observed that the applicant is resident of Karnataka State. Further, it is to be observed that in the earlier application, which was filed by the present applicant before the learned Sessions Judge, he has given his address as “304 Rest House, Crescent Road, Church Street, Bangalore”. However, the address which the applicant has given before this court is village Banya, Tahasil – Taranagar, District – Churu, Rajasthan. Thus, it is clear that, if the applicant is released on bail, his presence will not be procured.

[16] Though the co-accused is released on bail by the learned Trial Court, according to the learned counsel for the applicant, co-accused is still in jail since he could not fulfil the conditions, as imposed by him, by the learned trial court.

[17] In view of the aforesaid discussion, the applicant is not entitled for discretionary relief hence, present bail application is rejected. However, the learned court below is directed to decide the case on its merit, within a period of eight months from receipt of this

order, since the applicant is in jail. With this, present Criminal Application is disposed of.

(V.M. DESHPANDE, J.)