

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1517 OF 2019

Saif Sami Damad ... Applicant

Vs

The State of Maharashtra ... Respondent

...

Mr. Ashish B. Baraskar – Advocate for the Applicant.

Mrs. Sharmila Kaushik - APP for the Respondent-State.

PI-Indrajit More, Kurla Police Station.

Mr. Tabrez Ismail Khan – Original complainant.

CORAM : SANDEEP K. SHINDE J.

DATE : 11th DECEMBER, 2019

P.C. :

1. Complainant is present.

2. Heard.

3. The applicant is seeking his enlargement on bail, in Crime No. 326 of 2018, registered with Kurla Police Station, under Sections 406, 420, 468, 471, 467, 465 read with 34 of Indian Penal Code and Sections 65, 66 (K), 66(D) of the Information and Technology Act.

4. Complaint, alleged, in September, 2017, the applicant had sent a message on his face-book account and offered a Cabin Crew job, with Fly Dubai Airlines UAE, on salary per month 8,000/-

dirham i.e. Rs. 1,50,000/-. In January 2018, the applicant allegedly sent a Mail-Id and informed him of his Selection through Dax Recruiter Consultancy Company. It is alleged the complainant paid Rs. 3,26,000/- to the applicant and deposited Rs. 7,50,000/- in the Bank account of Mr. Shakti Rai (4th - absconded co-accused). Since employment offer, did not materialize, applicant sought refund of Rs. 10,76,000/-. Complaint alleged, he deposited Rs. 7,50,000/- in the account of Mr. Shakti Rai at the insistence of the applicant. Investigation, revealed, M/s. Fly Dubai Airlines, is non-existing entity. It is alleged, the Airline tickets given to the complainant were forged and fake. In short, the applicant was induced to part with Rs. 10,76,000/- on the forged selection/appointment letters, which caused unlawful losses to him. It is further reported, that the applicant refunded Rs. 3,50,000/- to the complainant, leaving balance Rs. 7,26,000/-.

5. This Court on 19th July, 2019 recorded willingness of the applicant and his family members to deposit sum of Rs. 7,23,000/- in the Registry of this Court, without prejudice his rights and contentions.

6. On 19th November, 2019, the counsel for the applicant on instructions undertook to draw a demand draft, for Rs. 3,50,000/- in the name of the complainant. Today, Demand Draft is tendered.

7. The investigation in this case is over. The Charge-sheet has been filed.

8. Prima-facie, it appears, the complainant had paid Rs. 3,26,000/- to the applicant and deposited Rs. 7,50,000/- in the account of Mr. Shakti Rai, in the Axix Bank at Hyderabad.

9. The learned APP on instructions submits Shakti Rai, is absconding and investigation revealed applicant had created, a fake website of Fly Dubai Career.

10. The prosecution could not point out at this stage, link between the applicant and the Shakti Rai, in whose account, amount has been deposited. Equally, it appears, no investigation is made, in respect of the Website daxrecruiter@zoho.com from where the mail was sent to the applicant *inter alia* asking him to deposit amount in the account of Shakti Rai. A fact cannot be ignored that, the applicant has refunded Rs. 3,50,000/- to the complainant and has tendered a demand draft in the sum of Rs. 3,50,000/- drawn in the name of the complainant. There are no criminal antecedents against the applicant. He is in the custody from 12.12.2018. The trial is likely to commenced in the near future.

11. In view of the facts and reasons stated the application is allowed and hence the following order.

ORDER

(i) The applicant be enlarged on bail in C. R. No. 326 of 2018 registered with Kurla Police Station, on executing PR Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount within 10 days from his release from the jail;

(ii) The applicant shall report to the investigation officer twice in a month commencing from the 2nd January, 2020, on 2nd and 25th day of each month, between 11:00 a.m. to 01:00 p.m, till the charge is framed;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time the Investigating Officer;

(iv) The applicant is directed to deposit a Passport with the investigating officer within 10 days from his release from the jail;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

12. The applicant is directed to handover the demand draft of Rs. 3,50,000/- to the complainant and obtain a receipt for the same.

13. The application is disposed of.

14. All concerned to act on the authenticated copy of this order.

(SANDEEP K. SHINDE, J.)