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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 65 OF 2022

SHIVAM KUMAR GUPTA

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. Mithilesh Mishra i/b Pradeep Dubey for the Applicant

Mrs. M. R. Tidke APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: FEBRUARY 1, 2022.

P.C.:

1) In crime no. 230/2021 registered with Nerul Police Station, Navi Mumbai for offence punishable under Sections 420, 468, 471 r/w 34 of the Indian Penal Code, applicant is seeking pre-arrest bail.

2) This Court in earlier round since was not inclined to grant bail has permitted the applicant to withdraw the application on 28/10/2021.

3) Co-accused Anmol Jaiswal suffered rejection from this Court on 15/11/2021, however, it is informed that Apex Court in Special Leave

to Appeal (Cri.) No. 9495/2021 has granted interim protection from arrest. As such, applicant has taken out this application. The submissions are, case of the applicant is on better footing than that of Anmol Jaiswal and as such, applicant deserves protection from this Court.

4) I have appreciated aforesaid submissions.

5) Agreement of sale between co-accused Anmol Jaiswal and present applicant in relation to transfer of immovable property produced on record. When enquired as to the title of the applicant to the said property, applicant is not in a position to justify the same from any of the documents on record. Apart from above, said Agreement of Sale is not a registered document. As such, it is difficult to infer that documents viz. agreement of sale which is relied on by the applicant in support of his prayer for grant of bail is germane to the cause cited. Apart from above, modus operandi of the applicant appears to be co-accused Chandrika Prasad appears to be front person in whose account accused persons initially collected the amount received from unemployed youth by promising overseas placement and routed the same through account of Anmol Jaiswal to

the account of the applicant. Applicant volunteers that in his account an amount of Rs. 76,47,050/- was received from co-accused Anmol Jaiswal.

6) Merely because applicant has come out with case that applicant is better placed than co-accused, that by itself will not establish the innocence. Towards consideration of land, amount of Rs. 76,00,000/- claimed to have been received by the Applicant, for which counsel for the applicant has drawn support from the bank account statement of the applicant. It is difficult to digest that out of balance amount of consideration of around Rs. 87,00,000/-, Rs. 76,00,000/- was received in installments of Rs. 1,000/-, 5,000/-, 7,000/- etc. Rather the flow of amount in the account of applicant demonstrates that applicant has received his share out of the amount received from each of the candidates by giving false promise of employment.

7) Applicant alongwith co-accused Anmol Jaiswal has taken undue advantage of rise in unemployment during pandemic and through co-accused Anmol Jaiswal promised overseas placement and accepted amount thereby cheated unemployed youth.

8) In the aforesaid background, in my opinion, no case for pre-arrest bail is made out. Application stands rejected.

[NITIN W. SAMBRE, J.]