IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.580 OF 2022

Nikhil Vasant Kadam ...Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.Mahesh V. Rawool for the Applicant.
Mr.S.R. Agarkar, APP for the Respondent-State.
Mr.Ajay Waghmare, PI, Crime Branch, Pune.

CORAM : C.V. BHADANG, J.

RESERVED ON : 21 MARCH 2022

PRONOUNCED ON : 18 APRIL 2022

P.C.

. By this application, the applicant (Accused no 4) is seeking bail in Crime No.58/2021 of Cyber Police Station Pune under Section 409, 406, 420, 465, 467, 468, 120B, 201 read with Section 34 of IPC, Section 66D of the Information Technology Act and Section 7 and 8 of Maharashtra Prevention of Malpractices at University Board and other Specified Examinations Act 1982.

2. The aforesaid offence is registered on the basis of complaint dated 20.12.2021 filed by Dattatray Jagtap Chairman

Maharashtra Council of Examination Pune. According to the informant the contract for conduction of the Teachers Eligibility test (TET) for the year 2018 was given to G.A Software. The result of the examination held on 15.7.2018 was declared on 12.10.2018. The material allegation is that Mr.Ashwin Kumar the then Manager of G.A. Software in conspiracy with the then Commissioner Sukhdeo Dere, Tukaram Supe and Mr Abhishek Sawarikar the then Technical Advisor in the Education Department had introduced the names of about 550 to 600 ineligible candidates in the select list after accepting Rs.50,000/- to Rs.60,000/- from such candidates and thereby have cheated the State Government and the eligible/genuine candidates.

3. The applicant is working as a Senior Clerk in Minority and Adult Education Department. The applicant was not named in the FIR. However according to the prosecution his name figured in the course of the investigation. It is claimed that the applicant had sent an Email to co accused Ashwinikumar on 4.10.2019 referring to payment of Rs.40,000/- each for 56 candidates and whats app chat between applicant and Ashwinikumar of having paid Rs.60,000/- in respect of 67 candidates. Reference is also made to an email sent to the applicant by Prashant Shinde for rechecking of the TET examination result of Sana Sheikh.

4. The learned Sessions Court has refused to release the applicant on bail by order dated 8.2.2022.

5. I have heard the learned counsel for the applicant and the learned APP for the state. I have gone through the record.

6. It is submitted by the learned counsel for the applicant that the applicant is not named in the FIR. It is submitted that the applicant is working as a Senior Clerk in the Minority and Adult Education department since 15.12.2017 and has no concern with the conduction of the TET examination. It is submitted that the necessary seizures have already been made and further detention of the applicant, is not warranted as the investigation is complete and charge-sheet is filed, qua the arrested accused. It is pointed out that the applicant has no criminal antecedents against him and is the sole breadwinner in the family.

7. The learned APP has submitted that specific material in the form of the emails and the whats app communication between the applicant and the co accused Ashwinikumar and an email sent by Prashant Shinde to the applicant in respect of the candidate Sana Shinde has been recovered during the investigation which show the complicity of the applicant in the offence. It is submitted that the offence is serious having wide

implications in which further investigation is still under way and some of the accused are still at large. He therefore submitted that the applicant is not entitled for bail.

8. I have considered the circumstances and the submissions made. It is not disputed that the applicant was working as a Senior Clerk with Minority and Adult Education Department since 15.12.2017. The alleged irregularities are in respect of the TET 2018 examination conducted on 15.7.2018 of which the result was declared on 12.10.2018. It is true that the name of the applicant does not figure in the FIR. However according to the prosecution his involvement was disclosed during the investigation. There are Emails shown to be sent from the email address nikhilkadam85@gmail.com of the applicant to Ashwin.kumar@gasofttech.com of the co-accused Ashwinikumar dated 4.10.2019 making specific reference to the payment of Rs.56 lakhs in respect of 56 students prior to one year and asking Ashwinikumar to return the amount as the parents of the candidates were pestering for payment. There is also an Email dated 7.8.2020 from Prashant Shinde to the present applicant in respect of the rechecking of the result of candidate Sana Shaikh. The applicant has not explained the said emails originating from/ received on his email address. Thus I find that there is *prima facie* case showing involvement of the applicant in the offence. Thus I

do not find that a case for grant of bail is made out. The application stands rejected.

C.V. BHADANG, J.