

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

CRIMINAL BAIL APPLICATION NO.648 OF 2022

Saurabh Mahesh Tripathi

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Rajiv Chavan, Senior Advocate a/w Mr.Aniket Nikam,
Mr.Piyush Toshnival, Mr.Amit Icham and Mr.Aashish Satpute 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 3) is seeking bail in Crime no 58/2021 of Cyber Police Station, Pune under Section 409, 420, 465, 467, 468, 120B, 201 read with Section 34 of the Indian Penal Code, Section 66D of Information Technology Act and Section 7, 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, Bangalore. 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 Education Commissioner Sukhdeo Dere, Tukaram Supe and 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/- each from such candidates and thereby have cheated the State Government and the eligible/genuine candidates.

3. The applicant was working as Vice President- Public Sector from May 2017 to March 2018 and from April 2018 to March 2019 as a consultant with G.A. Software Pvt Ltd. The specific allegation is that in June 2017 there was a meeting between the applicant, Abhishek Sawarikar, and Pritesh Deshmukh at Hotel La Meridian New Delhi in which the conspiracy to show the ineligible candidates as eligible/successful was hatched.

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

5. I have heard Mr Chavan the learned Senior Counsel for the applicant and Mr Agarkar the learned APP for the State. With the assistance of the learned counsel for the parties I have gone through the record.

6. It is submitted by the learned counsel for the applicant that the applicant was working with G.A. Software from May 2017 to March 2018. He resigned from the company in March 2018 and joined Winner Software Kharadi Pune in April 2018 as a consultant. It is thus submitted that the applicant had no concern with G.A Software during the period when the TET 2018 was held on 15.7.2018 and the declaration of result on 12.10.2018. It is submitted that the meeting held at Delhi in December 2017, has nothing to do with the said TET Examination. It is submitted that the only allegation against the applicant is that the applicant was party to the conspiracy. It is submitted that the applicant is not shown to be the beneficiary of the alleged transactions. It is submitted that the statement of the co-accused before the police would be hit by Section 25 of the Evidence Act and cannot be used against the applicant.

7. The learned APP has submitted that, from the information received from Hotel La Meridian Delhi and the statement, of Nilesh Shende, it has transpired that there was a meeting between the applicant Abhishek Sawarikar and Pritesh Deshmukh about the tender for the contract of the TET examination. It is submitted that there is material to show that Pritesh Deshmukh and Nilesh Shende had stayed in the said Hotel from 22.6.2017 to 23.06.2017. It is submitted that at the relevant time the applicant was associated with G.A Software Bangalore which company was entrusted with the contract for conduction of the TET examination for three years that is from 2017 to 2019. It is submitted that there is a deep rooted conspiracy to tamper with the result of the examination in which the result/marks obtained by about 1701 candidates were tampered with showing them eligible/successful thus causing serious prejudice to the genuine candidates inviting wide spread unrest/dissatisfaction amongst the candidates and the public. It is submitted that looking to the nature and scope of the irregularities there is likelihood of some more persons/officers being found responsible as the investigation is still proceeding. It is pointed out that some of the accused, are still to be apprehended and the possibility of misuse of bail, if granted, cannot be ruled out.

8. I have considered the circumstances and the submissions made. It is not in dispute that the contract for conduction of the TET 2018 examination was entrusted to G.A. Software Bangalore. It is also not in dispute that the applicant was working as Vice President -Public Sector with G.A. Software from May 2017 to March 2018. Although the prosecution claims that thereafter he was working as consultant with the said company the applicant claims that he resigned from the said company in March 2018 and joined Winner Software at Kharadi Pune as a consultant. The applicant has produced the appointment letter dated 29.3.2018 from Winner Software which shows that the applicant was appointed as Vice President from April 2018. On the contrary the prosecution is relying on the statement of co-accused Ganeshan Kaliyan who is the Chief Executive Officer (CEO) of G.A Software who states that the applicant was working as a consultant with the said company from April 2018 to March 2019. The fact remains that it is the statement by the co-accused. Be that as it may, the allegation against the applicant is that he had met Abhishek Sawarikar and Pritesh Deshmukh at Hotel La Meridian at Delhi in June 2017. I have gone through the statement of witness Nilesh Shende. It is necessary to note that in his capacity as a Vice President-Public Sector it was the duty of the applicant to look after the tender work of Government/Public Sector bodies. It has transpired in the investigation that the meeting in June 2017 was about such tender work of the

examination and the applicant was instrumental in obtaining the contract for conduction of the examination for three years from 2017. It is necessary to note that even according to the prosecution there were no irregularities in the matter of conduction of the TET examination for the year 2017. It is in this context, it is submitted by the learned senior counsel for the applicant that it is improbable and quite remote that the conspiracy to tinker with the result of the examination of the year 2018 could be hatched in June 2017.

9. In my considered view, even assuming that the applicant was working as a consultant with G.A software from April 2018 he is not shown to be the beneficiary or having any specific role in the entire episode. The evidence against the applicant is mostly in the form of the statements of the co accused. The investigation is complete and the charge-sheet is filed against the applicant and the co accused who are arrested. I find that the applicant cannot be detained behind the bars on the ground that some of the co-accused are still at large and the possibility of further investigation. Obviously such investigation can continue for which the detention of the applicant is not warranted. The apprehension expressed on behalf of the prosecution can be taken care of by imposing appropriate conditions.

10. In the result the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicant-Saurabh Mahesh Tripathi be released on bail on execution of a PR bond for Rs.25000/- with one or two solvent sureties in the like amount.
- (iii) The applicant shall undertake to remain present during the trial unless exempted.
- (iv) The applicant shall furnish his permanent as well as local address, if any, along with proof, to the satisfaction of the learned Trial Court.
- (v) The applicant shall surrender his Passport, if any, before the trial court.
- (vi) The applicant shall continue to cooperate with the investigating agency in further investigation, if any, and shall not tamper with the prosecution evidence/witnesses.

(vii) The observations are of a *prima facie* nature and the learned Trial Court shall decide the case on its own merits and in accordance with law, uninfluenced by the observations made in this order.

C.V. BHADANG, J.