

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1838 OF 2023

**RECARDO CRISTOPHER GOMES
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Datta A. Madake
APP for Respondents: Mrs. P.V. Diggikar.

**CORAM : S.G. CHAPALGAONKAR, J.
DATE : 8TH NOVEMBER, 2023**

ORDER :-

1. The applicant seeks bail in connection with Crime No. 8 of 2023 registered with Cyber Police Station, Dist. Jalgaon for the offences punishable under Sections 420, 409 r/w. 34 of IPC.

2. The investigation was set in motion on the basis of information given by Dr. Ullas Bhandare, wherein he alleges that he had a plan for a tour alongwith his friends to North India. He came across an advertisement while surfing Facebook page wherein trip details of North-East States/Seven Sisters was provided. He made contact with the tour company namely, "Thinktrip Travels" and deposited an amount as per the requisition of the travel company. It is alleged that in all an amount of Rs. 11,03,800/- has been deposited towards the tour charges in the bank account of the company. The flight tickets were also forwarded to him by the company. However, subsequently the flight tickets were found to be cancelled. Mobile numbers of contact persons had gone off. As such, the informant realized that he has been defrauded. On the basis of aforesaid information Crime No. 8 of 2023 came to be registered with police station, Jalgaon for the offence under

sections 409, 420 r/w. 34 of IPC and Section 66(D) of the Information Technology Act. The applicant has been arrested in pursuance of the crime. He is behind bars since 20th April 2023.

4. Mr. Madke, learned advocate appearing on behalf of the applicant would submit that the applicant has been falsely implicated. He has not committed any offence as alleged. There was no intention to defraud the informant or any other person. The cancellation of tour was for some other reasons. The applicant is ready and willing to deposit the entire amount involved in this crime. The investigation in the matter is complete. The charge sheet is filed. Further detention of the applicant would not be necessary. Hence, he prayed for release of the applicant on bail.

5. Learned APP opposes the prayer on the ground that as many as 6 offences are registered against the applicant for similar cheating. She would submit that the volume of the fraud in the present case involving huge amount and various other persons have been defrauded. As such, she prays for rejection of the application.

6. Having considered the submissions advanced, apparently, applicant is behind bars for more than 6 months. On completion of investigation charge sheet has been filed, however, charge is not yet framed. Trial is not likely to commence in recent future. It is trite that indefinite incarceration of the under trial prisoner cannot be permitted. All the offences alleged against the applicant are triable by magistrate. Although Section 409 of IPC is invoked, prima facie, offence of cheating may attract in such a case. However, it is a matter of trial. Pertinently, the applicant has voluntarily made an offer to deposit the entire amount

which is subject matter of this crime. Taking into account submissions and totality of circumstances, there is no impediment in granting prayer of the applicant for release on bail, subject to certain conditions. Hence, a case is made out for grant of bail.

: O R D E R :

(I) The application is allowed.

(ii) Applicant – Recardo Cristopher Gomes, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- with one surety of the like amount, in Crime No. 8 of 2023, registered with Cyber Police Station, Jalgaon, on the following conditions :-

(a) The applicant shall deposit the entire amount of Rs. 11,03,800/- with the trial court as a condition precedent for his release on bail

(b) Bail bonds of the applicant shall be accepted only after deposit of the aforesaid amount;

(c) On failure to deposit the entire amount the bail shall stand cancelled;

(d) The applicant shall not tamper with the prosecution evidence;

(e) The applicant shall attend the trial court on each and every effective date of hearing;

(f) The applicant shall furnish details of his residential address with Adhar details and update the same as and when directed by the I.O.;

(g) The applicant shall attend the local police station in whose jurisdiction he resides, once in a month and update his contact details.

(iii) Application stands disposed of.

[S.G. CHAPALGAONKAR]

JUDGE

grt/-