



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

BAIL APPLICATION NO. 2789 OF 2023

SHIVAM RAJESH KUMAR GUPTA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Mithilesh Mishra i/b Mr. Agastya Desai for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

API Sanjay Sadigale, EOW - 1, Navi Mumbai.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 19, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 420, 468, 471 and 34 of the Indian Penal Code registered on 30/06/2021 vide C.R. No.230 of 2021 with Nerul Police Station, Navi Mumbai.
- 3.** My attention is invited to the affidavit in reply filed on behalf of the respondent affirmed by Mr. Sanjay Bhagwandas Sadigale, Assitant Police Inspector, attached to Economic Offences Wing-1, Navi Mumbai. Briefly stated, it

is the prosecution's case that Chandrika Prasad accused No.1 formed a company in the name and style as Triway Navigation and Marine Company running a business of providing jobs to the aspirants in overseas companies. The amount of Rs.1,00,000/- was being collected from the candidates as commission/processing fees. Accused No. 2 Rashi was the employee of the company who was interacting and inducing the candidates. Accused No.3 was also employed with the company and was assisting accused No.1. Accused No.4 Anmol Jaiswal projected that he would be providing visas to the aspirants who wanted to take jobs overseas in the merchant navy and other related employments for which he would charge a sum of Rs.1,00,000/- per person. The applicant is accused No.5. It is the accusation that the applicant and the accused No.4 Jaiswal are good friends. After the money was collected by accused No.4, the said amount was transferred in the bank account of the present applicant.

4. Learned APP opposed the application. According to learned APP, from the amounts so collected, accused Nos. 4 and 5 purchased properties in Uttar Pradesh. Learned APP

submitted that the company was not providing any genuine employment but under the garb of providing employment, was collecting money from the job aspirants. The money was used for the personal use of the accused. Learned APP painstakingly took me through the materials to indicate the manner in which the entire racket was being operated. Learned APP further submitted that there are 2 similar antecedents against the applicant and therefore, in such circumstances, the applicant cannot claim parity with co-accused Anmol Jaiswal who has been enlarged on bail.

5. Learned counsel for the applicant invited my attention to the order dated 05/01/2023 in Special Leave to Appeal (Crl.) No. 9495 of 2021 (at page No.105 of the paperbook) whereunder the Supreme Court granted anticipatory bail to accused No.4- Anmol Jaiswal.

6. Considering the accusations in the facts and circumstances of the present case, the applicant can be enlarged on bail. The accusations mainly are against the accused No.4. The role of the applicant is much lesser than accused No.4. Learned counsel for the applicant further submits that so far as the properties of the applicant are

concerned, as also the one mentioned in the notarised agreement which at page No.20 of the paperbook, the same shall not be transferred or no charge created or dealt with or disposed of in any manner till the conclusion of the trial. The statement is accepted as an undertaking to this Court. The applicant was arrested on 29/03/2023. The investigation is complete and the charge-sheet has been filed. The applicant will face the consequences post-trial if found guilty. There is nothing on record to show that the applicant will evade the trial. I propose to impose stringent conditions while enlarging the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Shivam Rajesh Kumar Gupta in connection with C.R. No.230 of 2021 registered with Nerul Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more solvent sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Nerul police station twice a month, every first and third Monday of the month, between 11.00 a.m. and 1.00 p.m. till conclusion of the trial Court.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall abide by the undertaking given to this Court.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

(j) The applicant shall not leave India without prior permission of the trial Court.

7. The application is disposed of.

(M. S. KARNIK, J.)