



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

BAIL APPLICATION NO. 3358 OF 2023

MOHAMMAD ASGAR ALI	
MOHAMMAD SHAFIQUE RAEIN	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Adv. Jigar Agarwal for the Applicant.

Ms. Veera Shinde, APP for the State.

PSI R.N. Loke, Sakinaka Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 13, 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 Section 420 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 03/08/2021 vide C.R. No.833 of 2021 with Sakinaka Police Station, Mumbai.
- 3.** It is the allegation that the applicant is a director of the company. There are in all 6 accused. The applicant is

accused No.4. According to the learned APP, the present applicant and other co-accused Sachin Joshi (accused No.1) are the main accused. Learned counsel for the applicant submitted that the applicant is holding only 5% of the shares in the company. It is the prosecution case that the applicant and other accused represented to the victims that they would secure employment for those in need in foreign countries. Accordingly, a sum of Rs.65 lakhs was collected from various victims, who later realised that they had been cheated. The applicant was arrested on 04/12/2022 and is now in custody for more than 11 months.

4. Learned APP while opposing the application submitted that there are around 200 victims who have been cheated of their hard-earned money under the false promise of ensuring employment in the foreign countries. The company which the applicant represented is a bogus company. It is further submitted that there is an antecedent of a similar nature i.e. under Section 420 registered with Tulinj Police Station which again pertains to the victims who parted considerable sums of money on the promise that the

applicant would secure employment for them. Learned APP further submitted that the applicant is a flight risk as in the present case, the applicant was arrested from Nepal. It is submitted that the applicant is from Bihar.

5. Learned counsel for the applicant, on instructions, voluntarily submitted that to show the bonafides, applicant is willing to deposit Rs.5,00,000/- before the trial Court, before his release on bail. The statement is accepted as an undertaking to this Court. The deposit shall abide by further orders of the trial Court.

6. The offence under Section 420 of the IPC is punishable with a maximum punishment of 7 years rigorous imprisonment. The applicant is already in custody for more than 1 year. The trial is not likely to conclude soon. The investigation is complete and the charge sheet is filed. Though I am inclined to enlarge the applicant on bail, however, the same will be on the basis of some stringent conditions as the applicant's presence needs to be secured for facing the trial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mohammad Asgar Ali Mohammad Shafique Raein in connection with C.R. No.833 of 2021 registered with Sakinaka Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Sakinaka police station twice a month, i.e. on first and third Monday of every month, between 11.00 a.m. and 1.00 p.m. The applicant is at liberty to apply for relaxation/modification of this condition at a later stage before the trial Court, subject to conduct of the applicant after being released on bail.
- (d) 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.
- (e) 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.
- (f) The applicant shall not leave the state of

Maharashtra without prior permission of the trial Court.

(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 surrender his passport to the investigating officer. If the applicant does not have a passport, the applicant shall file an affidavit before the trial Court to that effect, prior to his release on bail and the prison authorities shall permit the affirmation of such affidavit.

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

7. The application is disposed of.

(M. S. KARNIK, J.)