

Sayali Upasani

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

BAIL APPLICATION NO. 2861 OF 2023

Shivkumar Rajesh Kumar Gupta @ Shivamkumar Rajesh Kumar Gupta	...Applicant
Versus	
The State of Maharashtra	...Respondent

WITH

BAIL APPLICATION NO.262 OF 2024

Udit Kamal Singh	...Applicant
Versus	
The State of Maharashtra and Others	...Respondent

Mr. Mithilesh Mishra i/b Agastya Desai, for Applicant in
BA/2861 OF 2023.

Mrs. G. P. Mulekar, APP for State/Respondent.

Mr. Balkrishna Pathak, for Applicant in BA/262 OF 2024.

CORAM:- N. J. JAMADAR, J.

DATED:- 8th FEBRUARY, 2024.

ORDER:-

- 1) Heard the learned Counsel for the applicant and the learned APP for the State.
- 2) The applicants, who are arraigned in connection with CR No. 106 of 2023, registered with Sakinaka police station, for the offences punishable under Sections 120-B and 420 read with

Section 34 of the Indian Penal Code, 1860, have preferred these applications to enlarge them on bail.

3) The indictment against the applicants is that the applicants the co-accused - Siddharth Vajpeyi and the absconding accused Harshit Yadav, Karan Yadav, Devang Singh, Shubham Singh, and others had induced the first informant and other persons to part with huge amounts by making a false representation that they would be provided employment in marine sector. The applicants and the co-accused had allegedly induced the first informant and others to hand over their passports, CDC, other documents and huge amounts.

4) The learned Counsel for the applicant - Shivkumar Rajesh Kumar Gupta submitted that the applicant had not made any inducement to either the first informant or any of the victims. Applicant - Shivkumar Gupta has been implicated on the strength of the allegations that the co-accused had credited the amount in the account of the applicant - Shivkumar Gupta. There is no material to connect the applicant- Shivkumar Gupta with any of the accused.

5) The learned Counsel for the applicant- Udit Kamal Singh submitted that he was an employee of Shivkumar Gupta and working with him. The applicant - Udit Singh was not at all

involved in making inducement to either the first informant or any of the witnesses.

6) The learned APP resisted the prayer for bail. It was submitted that the applicants were arraigned in similar offences in the past. The applicants have again indulged in identical offences. It was further submitted that around 55 unsuspecting persons were induced to part with an amount of Rs.45,00,000/- approximately. The co-accused are absconding. Therefore, the applicants do not deserve to be released on bail.

7) I have perused the material on record. The applicant - Shivkumar Gupta is sought to be roped in with the accusation that the co-accused - Shubham Singh had collected the passports, CDC and other documents from the first informant and the victims and huge amounts were credited to the account of Shivkumar Gupta, who has no other occupation. The applicants Udit Singh and Shivkumar Gupta were sitting in the office at Naygaon. There is material to indicate that the applicants had withdrawn the amount deposited in the account of the applicant Shivkumar.

8) Prima facie, it appears that the allegations are primarily against the co-accused Shubham Singh, who had induced the

first informant and the others to part with documents and amounts.

9) The learned Counsel for the applicant - Shivkumar Gupta invited the attention of this Court to an order dated 19th October, 2023 passed by this Court in Bail Application No. 2789 of 2023 arising out of CR No. 230 of 2021, registered with Nerul Police Station. This Court had, inter alia, noted that the allegations were primarily against the accused No. 4 therein. The applicant had secured the amounts allegedly defrauded by undertaking not to create any third-party interest in the property, which was referred to in the notarized agreement, till the conclusion of the trial. This Court accepted the said undertaking as an undertaking to the Court.

10) Mr. Mishra, the learned Counsel for the applicant - Shivkumar Gupta submitted that the value of the said property is adequate to cover the amount allegedly defrauded in this case as well. The applicant undertakes not to deal with the said property till the conclusion of the trial arising out of CR No. 106 of 2023 as well.

11) The situation which thus obtains is that the persons who had actually induced the first informant and victim to part with the amounts are absconding. The role attributed to the applicant

Shivkumar is that of being a person in whose account the amounts were credited by co-accused.

12) The applicants have been in custody since 2nd march, 2023. It is unlikely that the trial can be concluded within a reasonable period.

13) In the circumstances, I am inclined to exercise the discretion in favour of the applicants.

14) Hence, the following order:

: O R D E R :

(i) The applications stand allowed.

(ii) The applicants Shivkumar Rajesh Kumar Gupta @ Shivamkumar Rajesh Kumar Gupta and Udit Kamal Singh be released on bail in CR No.106 of 2023, registered with Sakinaka police station, for the offences punishable under Sections 120-B and 420 read with Section 34 of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.50,000/- each, with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicants shall attend the Investigating Officer of Sakinaka police station on the first Tuesday of every

month between 11.00 a.m. and 1.00 p.m. till conclusion of the trial Court.

(iv) The applicants 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 applicants shall not tamper with evidence.

(vi) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

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

(viii) The applicant Shivkumar Rajesh Kumar Gupta @ Shivamkumar Rajesh Kumar Gupta shall abide by the undertaking given to this Court.

(ix) The applicants shall surrender their passports, if any, to the investigating officer.

(x) The applicants shall not leave India without prior

permission of the trial Court.

(xi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicants and the trial court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]