



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3215 OF 2023**

Durgaprasad Shreenath Gupta ... Applicant
versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.3943 OF 2023
IN
BAIL APPLICATION NO.3215 OF 2023**

Durgaprasad Shreenath Gupta ... Applicant
versus
The State of Maharashtra ... Respondent

**WITH
BAIL APPLICATION NO.3792 OF 2023**

Radheshyam Shreenath Gupta ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Sanjiv Punalekar, wit Mr. Ravi Jaiswal i/by Ms. Jyoti Ghorpade, for Applicants.
Mr. S.R.Agarkar, APP for State.
API Kishor Avhale, Kasturba Marg Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicants, who are arraigned in C.R.No.224 of 2023 registered with Kasturba Marg Police Station for the offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, have preferred these

applications to enlarge them on bail.

3. The indictment against the applicants is that the applicants in pursuance of a conspiracy with co-accused Shweta Gajanan Kudalkar, had established an Institution – “Educational Board of Vocational Training and Research”, without obtaining permission of the State Government in the Department of Skill Development and Vocational Education. The applicants had allegedly used the logo and emblem to fraudulently represent that they had recognition of the State Government to conduct vocational training courses. The applicants had allegedly granted recognition to 2239 Institutes and certificates were issued to the candidates who obtained the training in different courses, by charging fees. The applicants thereby deceived the Government as well as the said Institutes and the candidates. It was alleged that since the year 2016, the applicants and the co-accused had deceived 2239 private institutes and about 25000 candidates and thereby defrauded them to the tune of Rs.4 Crores. In the process, the applicants and the co-accused forged the documents and used the forged documents as genuine.

4. Learned Counsel for the applicants submitted that the principal allegation against the applicants is that the applicants had operated an unauthorized institute and offered unauthorized courses of study. The said act and conduct of the accused/applicants would be an offence under Section 9 of the Maharashtra Unauthorized Institutions and Unauthorized Courses of Study in Agriculture, Animal

and Fishery Sciences, Health Sciences, Higher, Technical and Vocational Education (Prohibition) Act, 2013 (the Act of 2013). The said offence entails punishment which may extend to one year or fine. The applicants had, in fact, provided training in skills for which no authorization is required. Investigation is complete. The bank accounts of the applicants have been frozen. The applicants are in custody since 17 July 2023. Co-accused Shweta Kudalkar, who is by and large similarly circumstanced, has been granted pre-arrest bail by this Court. Therefore, the applicants deserve to be released on bail.

5. Learned APP laid emphasis on the fact that the FIR was lodged by the Secretary of the Maharashtra State Board of Skill Development, Vocational Education and Training, Mumbai. Notices were issued to the applicants. However, they did not respond to the notices and continued to run the institute by fraudulently representing that they had recognition. Attention of the Court was invited to the documents, stationery and seals seized during the course of the search of the office premises of the said Institute. Referring to the contentions in the affidavit in reply, learned APP would urge that the complicity of the applicants is prima facie made out and having regard to the amount which has allegedly been defrauded, the applicants do not deserve to be released on bail.

6. Learned Counsel for the Applicants joined the issue by canvassing a submission that neither any institute nor any candidate has made a grievance that the

applicants had induced them to part with money without providing training. Mr. Punalekar laid emphasis on the fact that many of the training courses offered by the applicants did not require any approval of the regulatory authorities.

7. Prima facie, it appears that the logo and emblem used by the applicants gave an impression that the Institute had government recognition. In the least, the representations made by the applicants, prima facie, appeared to be ambiguous and had the propensity to make a person believe that the courses they were pursuing, may have the recognition of the authorities.

8. The material on record, however, indicates that the applicants had provided services as the authorized training center. The allegations are not that the applicants collected money from the candidates without providing any training. Whether the applicants' act and conduct of providing training in a particular discipline would fall foul of the provisions contained in the Maharashtra Act No.XX of 2013 would be a matter for evidence and trial.

9. As regards the offences of cheating and forgery, the question as to whether the offences punishable under Sections 467, 468, 471 can be said to have been made out would again be a matter for trial. Prima facie, a case for cheating under Section 420 can, however, be said to have been made out. Offence under Section 420 of IPC entails punishment which may extend to seven years.

10. The applicants are in custody since 17 July 2023. Investigation is

complete for all intent and purpose. The bank accounts of the applicants have been freezed. The applicants appear to have roots in society. Possibility of fleeing away from justice and tampering with evidence, in the circumstances of the case, appears remote.

11. In the aforesaid view of the matter, I am inclined to exercise the discretion in favour of the applicants.

12. Hence, the following order :

ORDER

(i) The Applications stand allowed.

(ii) The Applicants – Durgaprasad Shreenath Gupta and Radheshyam Shreenath Gupta be released on bail in C.R.No.224 of 2023 registered with Kasturba Marg Police Station on furnishing a PR bond in the sum of Rs.30,000/- each and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicants shall mark their presence at Kasturba Marg Police Station on first Monday of every month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

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

(v) On being released on bail, the applicants shall furnish their contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicants shall regularly attend the proceedings before the jurisdictional Court.

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

Interim Application No.3943 of 2023 also stands disposed.

(N.J.JAMADAR, J.)