

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3639 OF 2023

SANTOSH
SUBHASH
KULKARNI

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SANTOSH SUBHASH
KULKARNI
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Barun Bansidhar Jha ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Subhash Jha, through VC, a/w Praveena Venkatraman,
i/b Law Global, for the Applicant.
Mrs. Geeta Mulekar, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 31st JANUARY, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. This application for bail is preferred in CR No.557 of 2023 registered with Mahatma Phule Chowk Police Station, Thane, for the offences punishable under Sections 420, 406, 465, 567, 568 and 471 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code")
3. The first informant got himself enrolled with Udaan Institute of Education and Skilling Pvt. Ltd for General Nursing Midwifery (GNM), a three years course. The applicant was the Director of the institute at Kalyan. The applicant and co-accused had represented to the first informant that the said institute offered a three year GNM

course and it was a recognized course. The first informant and other students were represented that Udaan Institute was affiliated to Vishwakarma University, Delhi. On the representations of the applicant, the first informant paid a sum of Rs.1,75,000/- and completed the three-year course. Upon completion of the course, the first informant was issued a certificate of having completed Advance Diploma in Patient Care Management Three Year Program 2020-2023. In the intervening period, the students were given identity cards and other documents representing that they were pursuing GNM course.

4. It transpired that Vishwakarma University was not a UGC-recognized University and there was no recognition to the course offered by Udaan Institute. The first informant and other 36 students were thereby duped to the tune of Rs.50,46,775/- by making them to believe that the course offered by Udaan institute was GNM and it had recognition. Thus, the first informant lodged a report against the applicant and Rahul Jha, who were stated to be the Directors of Udaan Institute, and Priti Sorate, the Branch Head of the Institute at Kalyan.

5. Mr. Jha, the learned Counsel for the applicant, submitted that the applicant is not the Director of Udaan Institute. Even otherwise, the students, who were enrolled with the Udaan Institute were apprised that they would be provided a certification of GNM. It was submitted that the proscription contained in Section 22 of the University Grants Commission Act, 1956 does not come into play as neither the Udaan Institute nor Vishwakarma University, with whom the said institute was affiliated, had issued any degree certificate. The applicant was arrested on 7th October, 2023. Investigation is complete and, therefore, the further detention of the applicant is not warranted.

6. The learned APP resisted the prayer for bail. It was submitted that though the applicant was not the Director of Udaan Institute yet the applicant was the principal person, who managed the affairs of the Udaan Institute. Accused Nos.1 and 2 had made their wives the Directors of the Udaan Institute so as to extricate themselves from the liability for the fraudulent acts. The learned APP would urge that the applicant has duped 55 students and they were defrauded of a sum of Rs.75,00,000/-.

7. I have perused the allegations in the FIR as well as the documents annexed with the report under Section 173 of the Code. *Prima facie*, the applicant does not appear to be the Director of the institute. In the circumstances of the case whether the applicant, though not being a Director of the Udaan Institute, was instrumental in managing the affairs of the said institute, had induced the students to enroll with the institute and part with the amount, would be matters for evidence and trial.

8. The question as to whether the certificate courses which were offered by Udaan institute and whether the affiliation with Vishwakarma University were legal, would also be matters for adjudication at the trial. The investigation is complete. The investigating agency has seized all the documents. At this stage, the further detention of the applicant does not seem warranted.

9. In the circumstances, having regard to the punishment which the offences entail and the period for which the applicant has been incarcerated, I am impelled to exercise the discretion in favour of the applicant.

10. Hence, the following order:

ORDER

- (i) The application stands allowed.
- (ii) The applicant Barun Bansidhar Jha be released on bail in CR No.557 of 2023 registered with Mahatma Phule Chowk Police Station, Thane, on furnishing a P. R. Bond of Rs.30,000/- with one or more sureties in the like amount.
- (iii) The applicant shall mark his presence at the Mahatma Phule Chowk Police Station, Thane, on the first Monday of every month in between 10.00 am. to 12.00 noon for the period of one year and, thereafter, first Monday of every trimester or till conclusion of the trial, whichever is earlier.
- (iv) The applicant 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 applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- (vi) The applicant 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.

Application disposed.

[N. J. JAMADAR, J.]