

THE HONOURABLE DR.JUSTICE G. RADHA RANI

CRIMINAL PETITION No.2833 of 2024

ORDER:

This Criminal Petition is filed by the petitioner - A2 under Sections 437 and 439 of Code of Criminal Procedure to enlarge him on bail in the event of his arrest in Crime No.32 of 2024 of PS CCS, DD, Hyderabad, registered for the offences under Sections 420 and 506 read with Section 120-B of IPC.

2. The case of the prosecution in brief was that on 31.01.2024 at 18:55 hours, a joint complaint was given by three persons by name Bandhanadham Jyotsna, Gorivarthi Naga Venkata Sai and Salibanda Joseph Reddy stating that they approached Hope Stone Career Consultancy represented by its Director Muthyala Sandeep Reddy (the petitioner herein) and his partners by name Katla Anil Kumar, Thumma Lavanya, Muthyala Vijay Reddy and Muthyala Sandhya Rani. The said consultancy assured to provide jobs in other Nations along with accommodation, VISA process, work permits. On the inducement of the accused persons, all the three complainants submitted required documents along with original passports and also paid Rs.24,00,000/- to the consultancy. The said consultancy promised to complete the process within two months. After receiving the payment, the consultancy directors / partners were not responding to the complainants and dragging the matter on one pretext or other.

On continuous demand, the consultancy directors / partners threatened the complainants with dire consequences. On 20.10.2023, the complainants visited the office of the consultancy situated at Prashanth Nagar, Shivam Road and came to know that the consultancy directors / partners cheated several victims to a tune of Rs.96,00,000/- in a similar manner and went absconding by closing their office.

3. Basing on the said report, the above crime was registered. During the course of investigation, A2 was arrested on 08.02.2024.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent - State.

5. Learned counsel for the petitioner submitted that the petitioner - A2 was arrested in Bengaluru International Airport while he was about to fly to Doha, Qatar, as his passport got flagged vide LOC No.2024403816 and was remanded to judicial custody on 08.02.2024. He was also sent for police custody for seven days. The petitioner - A2 successfully sent several persons abroad for higher education providing them with necessary requirements including admissions in colleges for students, work permits for individuals providing skilled and semi-skilled jobs and processed VISAs of various applicants to various countries. He was only charging nominal amount as fee on case to case basis. Due to the policy decisions of the sovereign countries, the nature of line

of skills, demand for line of skills, lack of aptitude skills, some of the prospective clients' VISAs were rejected. Sometimes work permits were granted on adhoc basis and sometimes delay could be caused in getting the clients in joining the organizations. Over all more than 90% of the students secured jobs, work permits and VISAs, but some of them failed to crack the VISAs and work permits for various reasons. The consultancy would not leave left out / disqualified applicants, but would encourage them to brush up their skills and prepare them to attempt for new examination. The petitioner - A2 had not committed any offence much less cheating them. When the applicants failed to crack VISA interview conducted by the respective Embassies, the work permits would become useless and eventually would expire in a month due to non-joining the duty. Some countries would stop issuing the VISAs on reaching the limit on cap for that month or season. Some countries would have a waiting period to get work. The petitioner - A2 informed the de-facto complainants that he would try for them again for work permits. Despite the same, the complainants formed into a mob and ransacked his office and threatened the petitioner - A2 and his family members. No complaint was filed by the petitioner for such acts of the de-facto complainants. Taking it as an advantage, the de-facto complainants foisted a false case implicating the petitioner and his family members, who have no knowledge about the present case.

5.1. He further submitted that the offences alleged against the petitioner - A2 were punishable with imprisonment for less than seven years. The prosecution ought to have followed the guidelines issued by the Hon'ble Apex Court by issuing 41-A notice, but deliberately produced the accused for remand. The petitioner - A2 raised his objections at the time of remand before the Court, but the trial court also without considering the same, remanded the petitioner. He relied upon the judgments of the Hon'ble Apex Court in **Arnesh Kumar v State of Bihar and Another**¹, **Md.Asfak Alam v. The State of Jharkand and Another**² and of this Court in **Jakka Vinod Kumar Reddy v. Mr.A.R.Srinivas**³ and prayed to enlarge the petitioner - A2 on bail.

6. Learned Additional Public Prosecutor on the other hand contended that the petitioner was the director of a consultancy and he in collusion with other accused persons induced around 23 victims / innocent job seekers and collected huge amount to an extent of Rs.96,00,000/- and defrauded them under the guise of providing jobs in other countries. The petitioner was intentionally avoiding the investigation and found absconding since the registration of the case. If he was released on bail, he might escape and would not co-operate with the Police for further investigation, securing his presence would be difficult for trial and prayed to dismiss the bail application of the petitioner.

¹ 2014 (8) SCC 273

² 2023 Live Law SC 583

³ 2022 SCC Online TS 1190

7. Perused the record.

8. The offences alleged against the petitioner were under Section 420 and 506 read with Section 120-B of IPC. All these offences are punishable with imprisonment which are extending up to seven years. As such, the petitioner is entitled to be issued a notice under Section 41-A Cr.P.C. as per the judgment of the Hon'ble Apex Court in **Arnesh Kumar v. State of Bihar and Another** (cited supra). But, however no notice was issued to the petitioner under Section 41-A Cr.P.C. No reasons were stated by the Investigating Officer in the remand report for not issuing the notice under Section 41-A. It was further stated that a look out circular was issued against the petitioner within one week of registering the case. The learned counsel for the petitioner stated that the petitioner was not aware of registering the case or issuing Look Out Circular against him. Without issuing any notice to him either under Section 41-A or a copy of the LOC to him he was stopped at the airport abruptly. The petitioner was apprehended while he was in Bengaluru International Airport while trying to fly to Doha, Qatar. The contention of the learned counsel for the petitioner was that the petitioner was a frequent flier and he used to visit other countries frequently with an average of six trips a year to build relations and generate work for his clients and filed the passport of the petitioner showing several stamps of the Immigration Authorities showing that he was frequently travelling.

9. As rightly contended by the learned counsel for the petitioner, there could be several reasons for which the consultancy could not provide work permits and VISAs. They depend upon the nature of skills of the applicants, demand for line of skills, lack of aptitude skills, due to which the applicants might fail to crack VISA interviews conducted by the respective Embassies or reaching a limit on the cap for issuing the VISAs in the said month or season or due to the waiting period for getting work. Without considering all these factors, it could not be stated that the petitioner had cheated the applicants and defrauded them without providing the jobs.

10. As the petitioner was even taken on police custody and his further custody was not required for custodial interrogation also, it is considered fit to grant bail to the petitioner.

11. In the result, the Criminal Petition is allowed and the petitioner - accused shall be released on bail on his executing a personal bond for Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a like sum each to the satisfaction of the learned XII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad. The petitioner shall comply with all the conditions laid down under Section 437 (3) Cr.P.C.

As a sequel, miscellaneous applications pending in this petition, if any shall stand closed.

Date: 15th March, 2024
Nsk.

Dr. G.RADHA RANI, J