IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4777 OF 2025

Vivek Arvind Kumar ...**Applicant**
Versus
State of Maharashtra ...**Respondent**

Mr. Shirish Desai, *with Hitanshi Gajaria, for the Applicant.*
Ms. Megha S. Bajoria, *APP for the Respondent-State.*

CORAM DR. NEELA GOKHALE, J.
DATED: 24th DECEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 0247 of 2024 dated 18th May 2024 registered with the Dongri Police Station, Brihanmumbai City for the offences punishable under Sections 420, 409, 465, 468, 471 and 120-B of the Indian Penal Code, 1860 (for short 'IPC'). There are in all 3 accused. The Applicant is Accused No.1.

2. The facts of the case, as discerned from the FIR, are that:-

2.1 The Applicant along with the Co-accused, had issued an advertisement, claiming to facilitate interested candidates to undertake a Master's Degree in a course called 'Post Graduation in Radiology' in Spain. For the said purpose, he arranged Google meetings with the Complainant, who was an interested candidate and informed him that the total cost for the same is Rs.15 Lakhs. He represented that the duration of the course was 5 years; in the first 3 months, the candidate would have to complete a crash course in Spanish language and thereafter, the candidate will have to intern in the Barcelona City Hospital for 6 months. It was further represented that without appearing for any entrance examination, candidate will be admitted in a medical college for the Master's degree and Post Graduation in Radiology in Spain. Accordingly, the Complainant, trusting the Applicant, was lured to part with 15 Lakhs, which he transferred to

Account No.40369285830 in the State Bank of India. Thereafter, the Complainant travelled to Spain. Upon reaching, he found that there was no hotel booking in his name. He was constrained to stay with his friends. He tried to contact the Applicant and the Co-accused but, there was no response from them. Eventually, the Complainant stayed in a small hotel. Even the college where the Complainant was to learn Spanish, was changed and admission was given to him in another institution. He completed the course of Spanish language in 3 months and thereafter, when he was to join the City Hospital, it transpired that there was no such internship facilitated made by the Applicant and the Co-accused. The Complainant was compelled to return to India. The Applicant and the Co-accused avoided the Complainant's phone calls. On 14th March 2024, the Applicant sent a WhatsApp message to the Complainant and told him that arrangement was made for him to join an alternate hospital in Spain, which was 700 kms further from his place of residence. The Complainant was left to arrange for his own accommodation. However, when he showed the letter admitting him to the said Hospital, it appeared that the said internship letter was also forged. Ultimately, since the visa of the Complainant was to expire, he was constrained to return to India. He realized that he has been duped and lodged the complaint pursuant to which, the FIR was registered.

3. Co-accused namely, Archana Gautam was arrested on 1st June 2024. She made an application seeking bail before the Trial Court and by order dated 31st August 2024, she was released on bail. The Applicant and the Co-accused, namely, Rahul Gautam, moved an application seeking anticipatory bail before the Trial Court and by order dated 20th December 2024, their application was rejected. The co-accused, namely, Rahul Gautam challenged the rejection of his anticipatory bail application before this Court, which was also rejected. Thereafter, he challenged the order passed by this Court before the Supreme Court and the Supreme Court also rejected his anticipatory bail application vide order dated 17th

December 2025. The Supreme Court had also directed the Applicant to surrender within two weeks from the date of the order.

4. Be that as it may, the Applicant also moved an application for regular bail, before filing of the charge-sheet, before the Judicial Magistrate, First Class, 70th Court, Mazgaon, Mumbai, however, by order dated 21st August 2025, his bail application was rejected. He again filed a bail application, after the charge-sheet was filed, before the Judicial Magistrate, First Class, 70th Court, Mazgaon, Mumbai, however, by order dated 17th October 2025, his bail application was rejected. Thereafter, he moved the Sessions Court for Greater Bombay, seeking bail. However, by order dated 27th November 2025, the Sessions Court was also pleased to reject his bail application. Hence, the Applicant is before this Court for the reliefs as prayed.

5. Mr. Shirish Desai, learned counsel appearing for the Applicant, submits that the Co-accused namely, Archana

Gautam and Omkar Jilli are released on bail. He submits that in fact, the amount received from the Complainant was deposited in the account of Archana Gautam and the Applicant has not received a single penny from the same. He has also drawn my attention to the agreement dated 20th September 2022, executed at Ghaziabad, Uttar Pradesh by and between IBS International Institute and 'The Internationally'. He submits that as per the contract, it was the duty of the IBS International Institute to arrange and facilitate the admissions and the role of 'The Internationally', of which the Applicant was a partner, was only to recruit the candidates. He thus, submits that the Applicant has not committed any offence much less, the offence as alleged by the Complainant. In these circumstances, he prays that the Applicant be released on bail.

6. Ms. Megha Bajoria, learned APP representing the State in the matter, on the other hand, contests vociferously the said Bail Application. Firstly, she has brought to my attention, the fact that part of an amount deposited by the Complainant in the account of Archana Gautam, is transferred to the account of the Applicant. She submits that some of the amount is transferred to the account of the Applicant and hence, it cannot be said that he was not benefited from the said fraud. The fraud and forgery is committed collectively by them. She also submits that the advertisement on Instagram was posted by the Applicant. She has further tendered a police report detailing antecedents in respect of the Applicant. There are as many as 6 antecedents of similar nature against the Applicant in different States. She submits that he is arrested on 17th July 2025, which does not constitute ‘long incarceration’ and hence, his Bail Application be rejected.

7. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. A plain reading of the FIR clearly reveals the role of the Applicant. The allegations in the FIR are completely and fully against the Applicant. Although, the amount is transferred in the bank account of the Co-accused, Archana Gautam, who is released on bail, as per the entries indicated by Ms. Bajoria, some of the money has been transferred from Archana Gautam's account to the account of the Applicant as well. I have perused the agreement between the IBS International Institute and 'The Internationally', which according to Mr. Desai, the Applicant is part of. Firstly, there is no authenticity to the said Agreement. Secondly, even if the role of the Applicant on behalf of the 'The Internationally' is taken to be for recruiting candidates, the act of recruiting candidates is not to be done by forging admission letters. It is the duty of the Applicant to ensure that the admission letters, certificates, the bookings in the hotels, etc., of the candidates are legitimate. The Complainant has suffered immense financial and mental hardship on account of the fraud played by the Applicant on him. Moreover, there are as many as 6 antecedents against the Applicant. All the antecedents are pertaining to similar offences of duping candidates and extracting money from them on the premise that they will get admissions abroad. Mr. Desai has claimed parity with Archana Gautam. I have gone through the order passed by the Sessions Court, releasing Archana Gautam on bail. The facts in that matter are quite distinct from the facts in the present case. In that matter, Co-accused Archana Gautam was arrested in 2024 and has suffered incarceration for some time. Moreover, there was no direct contact of Archana Gautam with the candidates, as they were recruited by the Applicant and in that sense, her role is limited to the extent of allowing her account to be used to deposit the money. The Applicant is arrested on 17th April 2025 and has suffered incarceration only for 6 months. Maximum sentence for the said offence is life imprisonment. In these circumstances, the incarceration of the Applicant cannot be termed as long incarceration.

9. In view of the aforesaid discussion, I am not inclined to enlarge the Applicant on bail at this stage.

10. The Bail Application is rejected.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)