

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

CRIMINAL BAIL APPLICATION NO. 1610 OF 2022

Vikram Bharatsingh Rathod

Age : 39 Years, Occupation : Business,

Residing at : A/03, Narmada Building,

River Park, S. N. Dubey Road,

Dahisar (E), Mumbai – 400 068.

...Applicant

vs.

The State of Maharashtra

[At the instance of Wagle Estate

Police Station, District : Thane]

...Respondent

Mr.Abad Ponda–Senior Advocate a/w Mr.Meghashyam Kocharekar–
Advocates for Applicant.

Mr.H.J.Dedhia–APP for the Respondent-State.

Mr.Krushna Kokani–Police Inspector–Crime Branch–Unit 1–Thane.

CORAM : S. M. MODAK, J.

DATE : 11th APRIL, 2023

P. C. :-

1. Heard learned Senior Advocate Shri.Ponda and learned
Advocate Shri.Kocharekar for the Applicant and learned APP
Shri.Dedhia for the Respondent-State.

2. As observed on the last date, learned APP has produced one compilation consisting of the statements of some of the witnesses.

With the assistance of both of them, I have perused them.

3. Criminal law is set into motion on the complaint of one Arbaj Jaafar Shaikh. His complaint is recorded by the Crime Branch – Unit No.1 – Thane on 11th March, 2020. On his complaint, an offence came to be registered under Sections 120-B, 201, 419, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code, 1860 [“IPC”] and under Sections 66-C and 66-D of the Information Technology Act, 2000 [“IT Act”]. The offence is registered against in all 7 named persons and others.

4. The sum and substance of the allegation is that there is bogus call centre being operated at Wagle Estate, Thane (West) and certain phone calls are made to various needy persons. They were asked whether they are in need of finance and when the positive response is received, they were asked first to obtain the insurance policies to be issued by various companies. In fact, policies are also issued, however, the loan is not sanctioned.

5. During investigation, the Police have arrested few of the Accused persons. Even, charge-sheet is filed initially against some of

the Accused persons. Whereas, charge-sheet against the present Applicant is filed as a supplementary charge-sheet. During investigation, it was disclosed that further offences are also committed and hence, charge-sheet is filed under Sections 120-B, 201, 419, 420, 465, 467, 468, 471 read with 34 of IPC and under Sections 66-C and 66-D of IT Act.

6. Learned APP apprised me that there are two sets of witnesses. One is the witnesses who have accessed the website – nokari.com for the purpose of employment and from that site, they were told to approach particular companies. Those candidates have approached that company on the given address. One of such company is Primedserv Tech Pvt. Ltd. When those candidates have visited the Office of the said company, the present Applicant interviewed them.

7. So far as this set of witnesses are concerned, they are not not having grievance about being cheated by anyone. One of such witness is Pooja Prasad Chavan. Her statement is on Page No.64.

8. Second set of witness consists of in all 18 persons and they are duped for an amount of Rs.20,00,000/-. Those witnesses were contacted for the purpose of ascertaining whether they are in need of financial assistance and when they have expressed willingness, they

were first asked to obtain the policies of certain insurance companies. It was disclosed that one of the callers is Priya Deshmukh and follow up is done by one Prashant Patil. They were issued the relevant policies. However, when the question of sanctioning the loan has arisen, those persons have backed out.

9. Out of these 18 witnesses, some of them have also paid certain amount either by way of processing fees or otherwise towards the grant of a loan and some of them have not paid.

10. During investigation, the Police have also recorded a statement of one Sachindra Tarashankar Mishra who is an accountant in Primedserv Tech Pvt. Ltd., the company in which the Applicant also claims that he is a director. Being an accountant, he was aware about the functioning of the company. According to him, the needy persons are marketed about one sanjeevani product and this product was sold to the needy persons in the name of a company by name Crater Online Retail Private Limited. The arrested Accused persons as per the first charge-sheet are the directors of that company. It is further disclosed that the present Applicant being director of Primedserv Tech Pvt. Ltd., was doing the marketing of that product. Crater Online Retail Private Limited was having Office at Thane and at

Calcutta. Different persons are working there.

11. The witness Sachindra Tarashankar Mishra has further disclosed that there is a transfer of an amount of Rs.3,65,80,000/- from the company Crater Online Retail Private Limited to the company Primedserv Tech Pvt. Ltd., and voucher is also prepared to show that in fact the money is transferred for the purpose of purchase of a server storage. Whereas, he has said that this is a bogus voucher and in fact, no purchase of server storage has been made.

12. According to learned APP, during investigation, it was further disclosed that there are thousands of persons who have been cheated in a similar manner, so to say they were offered to purchase some of the policies as a condition to grant a loan and in fact, they have also paid certain amount but they were not granted loan and the amount misappropriated is in crores. Whereas, during investigation, the Investigating Agency has unable to record statement of those persons except these 18 persons. Learned APP has pointed out to me the statement recorded of the arrested Accused one Rajnish alias Rajsing Trinath Singh. In his statement, he has thrown light about the functioning of these companies and how the money is transferred

and what is the chain.

13. Learned Senior Advocate Shri.Ponda submitted that this statement not recorded under Section 27 of the Indian Evidence Act, 1872 and it is not having evidentiary value. According to him, in fact, as directed by this Court, the wife of present Applicant has also filed an additional affidavit dated 6th October, 2022 wherein she has clarified that her husband was doing the business of supplying software and it is also supplied to various companies and he has received the professional fees. There are also annexures thereby supporting those payments and they are annexed to the affidavit. The contention of the Applicant is that he is not disputing receipt of amount of Rs.3,65,80,000/- received from Crater Online Retail Private Limited. Whereas, according to him, this amount is received for the purpose of supply of software in that company.

14. Learned Senior Advocate Shri.Ponda also submitted that along with him, one Aniket Ramani is also a director and in fact, there is an agreement executed in between Crater Online Retail Private Limited and Primedserv Tech Pvt. Ltd., and this was also signed by the co-director Aniket Ramani. Learned Senior Advocate Shri.Ponda criticized the conduct of Investigating Officer in first describing the

said Aniket Ramani as an Accused person and thereafter, retracting from stand and to make him as a witness.

15. In the charge-sheet at Page No.71, there is one mobile and laptop produced by the said Aniket Ramani. No doubt, he is described as an Accused in the said panchanama, however, when query is put to learned APP, it is submitted that the said Aniket Ramani is not charge-sheeted. Furthermore, there is no 169 report submitted against him. Learned APP could not justify why this Aniket Ramani was described as an Accused person in the said panchanama dated 25th April, 2020.

16. Even though it may be true that the accountant Sachindra Tarashankar Mishra has said that the voucher is bogus, from the charge-sheet nothing is pointed out to me in order to support that allegation that the voucher is bogus and the entire transaction of sale of server storage has in fact not taken place. The Prosecution can very well allege that transfer of this amount of Rs.3,65,80,000/- is nothing but an amount collected by Crater Online Retail Private Limited by duping various customers and that is why, the present Applicant has received the benefit. However, making allegations is not sufficient. The present Applicant and other arrested Accused

have been interconnected to in order to support their allegation.
Nothing is pointed out from the charge-sheet to support the said
allegation.

17. If we consider the above facts, one can say that so far as those 18 customers are concerned, it is not the case of Prosecution that they have parted any amount to the present Applicant or his company. So, the role of the Applicant is about receiving the benefits accrued as per the acts of cheating. When the Applicant has taken a specific stand that he has received that amount towards the professional services, the Investigating Agency ought to have pointed out some materials not to accept that stand.

18. The Applicant is behind bar for more than one year. There is charge-sheet filed against him. So, this Court feels that he deserves to be released on bail. All other 7 Accused persons, they are also granted bail. Hence, following order :-

O R D E R

- (i) Application is allowed.
- (ii) Applicant Vikram Bharatsingh Rathod be released on bail in connection with C.R.No. 42 of 2020 registered with Wagle Estate Police Station – Thane on furnishing personal bond and surety bond of Rs.50,000/-.

- (iii) Applicant to give attendance to Crime Branch Unit -1
- Thane on first Monday of every month from 10.00
to 12.00 noon at least for one year.
- (iv) Applicant not to threaten the Prosecution witnesses
or to allure them in any manner.
- (v) In case of breach of any of the conditions, bail of the
Applicant is liable to be cancelled after notice.
- (vi) The Applicant is at liberty to furnish two sureties for
Rs.25,000/- each.

19. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

20. Application is disposed of in the aforesaid terms.

21. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]