

MHPU010109382023

**Kumar Kunal**
Vs.
State

Order below Exh. 01
(Dated:24th July, 2023)

The present application has been filed by applicant namely Kumar Kunal under section 438 of Criminal Procedure Code (Cr.P.C.) for grant of anticipatory bail in connection with Crime No.46/2021 registered with Cyber Police Station, Pune, for the offences punishable under Sections 419, 420, 120 B, 201 R/w. Sec.34 of The Indian Penal Code (IPC) and under sections 43 (a)(f)(g)(i), 66 C and 66 D of the Information Technology Act.

2. As per prosecution case, the informant namely Swapnil Vaidya lodged report alleging that since February 2021 he is working in S.G. Analytics Company as Consultant. In the month of June 2021 his friend namely Abhishek Kumar Sabhajeet Singh called him and told that there is page named as GMAT_GRE_SHORTCUT on Instagram on which under the banner of DREAM EDUCATION coaching center an advertise is published about how to secure more marks in GMAT, GRE, VIT, B.Tech entrance exams and for that one has to pay amount. Friend of informant suspected some scam therefore he requested informant to provide his laptop for sting operation.

3. It is alleged that informant gave his laptop to his friend but due to electricity failure his friend could not appear in exam. It is alleged that his friend Abhishek requested to informant to allow him to appear in exam from his house as there is inverter facility at the house of informant. He asked informant to help him in sting

operation. Accordingly, Abhishek gave mobile number of informant to accused Pranav. On 13/07/2021 informant received WhatsApp call of said Pranav, who told that they will help him to score more marks in GMAT entrance exam. Pranav also told that if he secured desired marks then he will have to make payment. It is alleged that Pranav sent package details on the WhatsApp number of informant. On the same day Pranav created WhatsApp group and added informant and Abhishek therein. Then on 14/07/2021 on the say of Pranav, informant installed Any Desk app on his laptop and laptop of Abhishek. Then laptop of informant was being operated remotely. On 15/07/2021, informant appeared for exam with the help of DREAM EDUCATION of which remote access was obtained by the applicant/accused. Informant got provisional score as 770/800. Then on 17/07/2021 Pranav asked informant to deposit 4 lacs rupees in one bank account. On that informant disclosed to Pranav that they appeared in exam for sting operation and they are taking action against him by reporting matter to police. Then Pranav said that he is only employee and one Abhay Kumar is the head of coaching center. He also told that Abhay Kumar is about to commit such scam in AIIMS entrance exam. Accordingly, informant lodged report against Pranav and Abhay Kumar Mishra which is registered as above. It is mainly alleged that accused in this crime run a scam with the help of Any Desk app, some of accused obtain remote access of computers of respective students and solve paper in GMAT exam in place of students and if students get desired marks, then they obtains money from those students.

4. Perused the application and say of Investigating officer. Also perused investigation papers. Heard Ld. Advocate for the applicant and Ld. APP for the State.

5. It is contended by Ld. Advocate for the applicant that the informant lodged false report. Applicant is residing at Pune and has purchased Flat at Mahalunge. It is contended that applicant is partner in one firm which works in the field of teaching courses for prospective MBA students. It is contended that applicant is no way concerned with alleged crime. The applicant never received any notice from police. There is inordinate delay in lodging report. Offence levelled against applicant is not punishable with death or life imprisonment. Co-accused no.1 to 3 have been released on bail. There is no recovery from applicant. It is contended that present applicant is having apprehension that he may be arrested in non bailable offence. If he is arrested then his reputation will be maligned. It is further contended that applicant/accused is ready to abide by all the terms and conditions, if any, imposed by this Court while granting him anticipatory bail, therefore, it is prayed to allow the application.

6. Per contra, Ld. APP strongly opposed the application contending that there is prima facie case against present applicant. Though name of applicant is not in FIR but role of applicant in crime is revealed during investigation. There are chats between deceived student and applicant. The scam is at big level therefore thorough investigation is required. It is contended that the applicant did not and is not cooperating with investigating machinery. Mobile used during commission of offence is yet to be seized from applicant. Investigation is going on. Other accused are yet to be arrested. If the applicant is granted anticipatory bail, then there is possibility of destroying the evidence by applicant and also chances of pressurizing the informant and witnesses, therefore, it is prayed to reject the application.

7. On perusal of copy of investigation papers, it appears that though name of present applicant is not in FIR but student namely Shantanu has specifically stated that present applicant along with other accused by assuring him to secure his admission in reputed college convinced him to appear in exam and deceived him to the tune of Rs.8,22,000/-.

8. The allegation against present applicant is that he and co-accused by taking remote access of the laptop solved paper for that student. Such act on the part of accused is very hazardous for the society. The WhatsApp chat between applicant and Shantanu gives support to the case of prosecution at this stage. The iPhone used by applicant has not been produced by applicant before investigating officer in spite of opportunity. He put-forth the reason that the said mobile was damaged and company replaced that mobile as it was in warranty period, but no document to that regard has been produced. Investigation is going on. Considering allegations against applicant/accused and his prima facie involvement in crime, thorough investigation is required. In such set of facts and circumstances and considering prima facie case against the applicant in such serious crime, I am not inclined to grant protection of anticipatory bail to applicant, hence I pass following order –

Application **(Exh.1)** for anticipatory bail is hereby rejected.

Date :24/07/2023

(R.R. Mendhe)
Addl. Sessions Judge, Pune

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment are same word for word as per original judgment.

Name of Steno : S. B. Gore (Stenographer Grade-1)

Court Name : Shri. R.R.Mendhe, Addl. Sessions
Judge, Pune

Date : 24/07/2023

Judgment signed by P.O. On : 24/07/2023

judgment uploaded on : 24/07/2023