

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL MISC. APPLICATION NO. 6809 of 2024
(FOR REGULAR BAIL - AFTER CHARGESHEET)**

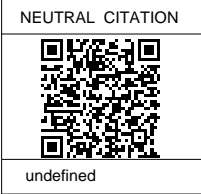
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KRUNAL DILIPRAV NIKAM
Versus
STATE OF GUJARAT
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Appearance:

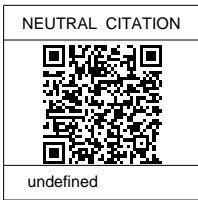
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MR DHRUVIN P BHUPTANI(8295) for the Applicant(s) No. 1
MR VIRAJ P THAKKAR(9333) for the Applicant(s) No. 1
MR SOAHAM JOSHI APP for the Respondent(s) No. 1
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CORAM:HONOURABLE MR. JUSTICE DIVYESH A. JOSHI**Date : 20/06/2024****CAV ORDER**

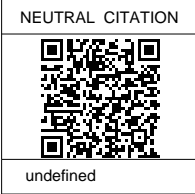
1. Rule. Learned APP waives service of notice of rule for respondent – State of Gujarat.
2. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, for regular bail in connection with the FIR being C.R. No.11196003230675/2023 registered with the Manjalpur Police Station, Vadodara City for the offence punishable under Sections 406, 420 and 114 of the Indian Penal Code.
3. Learned advocate for the applicant submitted that the so-called incident has taken place for the period between 01.08.2019 to 20.08.2023, for which, the FIR has been lodged on 20.08.2023 and the applicant has been arrested in connection with the same on 20.08.2023 and since then, he is in judicial custody. Learned advocate submitted that



now the investigation is completed and after submission of the chargesheet, the present application is preferred. Learned advocate submitted that FIR is lodged against three accused persons and the applicant is shown as accused no.1 and rest of the accused have already been considered by this Court. Learned advocate submitted that the applicant is the owner of Laksh Management Consultancy and was having office at Baroda and on the strength of the advertisement published by the applicant for the purpose of getting work permit and student visa of Canada, number of persons have approached him and at that time, the applicant had given assurance that on clearance of the oral interview, LMIA Certificate would be issued for a period of three months and they would get work permit for the purpose of said work and for the same, the applicant has charged Rs.3,00,000/- from per person and the applicant has also entered into an agreement with those candidates to the effect that if the work as assured by him would not be done, in that event, he would repay the amount to the person concerned. Learned advocate submitted that in fact, the applicant was indulged into such business since long and number of persons have received work permit/ visa of different countries from the office of the applicant but as the complainant and other witnesses could not be able to clear the interview, visa process was not process further

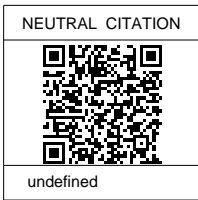


for those candidates. Learned advocate submitted that it is alleged that the present applicant has not repaid the amount back to them as their work has not been done, therefore, FIR has been lodged against the applicant. Learned advocate has produced chart mentioning the details of the candidates, who have been repaid the amount. Learned advocate submitted that in fact, entire incident had taken place during Covid_19 and at that point of time, some candidates have cleared interview and some of them could not be cleared it due to criteria fixed by the concerned country at the relevant point of time and the candidates, who have helped the applicants during those days, have been repaid and, hence, the liability cannot be fastened upon the applicant because of not clearing the interview by the concerned candidates. Learned advocate submitted that entire case of the prosecution hinges upon documentary evidence and all those documents have been collected by the IO during the course of investigation. Learned advocate submitted that all the offences are exclusively triable by the Court of Magistrate and if at the end of day, the charges leveled against the applicant are proved, in that event, maximum punishment, which can be imposed, is less than 7 years. Learned advocate submitted that against the applicant, total 4 different FIRs have been registered by four independent persons but out of them, the applicant is bailed out in one case,



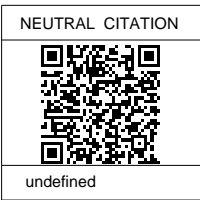
whereas proceedings are going on in connection of two offences and same are at the fag end of trial. Learned advocate submitted that here in this case, more than 300 witnesses have been cited in the papers of the chargesheet, therefore, it would take considerable time to conclude the trial. Learned advocate has put reliance upon the judgment of the Hon'ble Apex Court in case of **Lalit Chaturvedi & Ors. Vs. State of Uttar Pradesh & Anr.**, reported in **2024 SCC OnLine SC 171**, more particularly, Paragraph No.9 of the said judgment and submitted that considering the ratio enunciated in the said decision, the applicant may be enlarged on regular bail by imposing suitable conditions.

4. Learned APP for the respondent-State has opposed grant of regular bail looking to the nature and gravity of the offence. It is submitted that the role of the present applicant is clearly spelt out from the papers of the chargesheet. Learned APP submitted that during the course of investigation, the IO has recorded the statements of more than 315 persons and it is found out from the statements of those persons that the applicant has collected/ pocketed more than 3,57,83,500/- from all the witnesses on the assurance that on clearance of the interview, LMIA Certificate would be issued for a period of three months and they would get work permit for the purpose of said work and for the same, the applicant has already



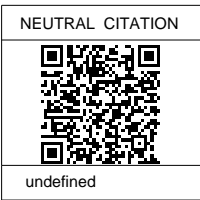
entered into agreements with those candidates specifically mentioning that if they would not get work permit, in that event, he will repay the amount but not a single penny has been repaid by him to the complainant and other witnesses and not only that, at the time of execution of the agreements, the present applicant handed over cheque to those witnesses, which were deposited but could not be honoured and, hence, those witnesses have instituted complaints under Section 138 of the NI Act, which are more than 31 complaints registered against the present applicant. Learned APP submitted that the applicant has pocketed huge amount from the gullible persons and direct involvement of the applicant is found out from the investigation papers. It is, therefore, urged that considering the above factual aspects, this application may not be entertained.

5. I have heard the learned advocates appearing on behalf of the respective parties and perused the papers of the investigation and considered the allegations levelled against the applicant and the role played by the applicant. It is found out from the record that the present application is preferred after submission of the chargesheet and now the investigation is completed and the applicant is in jail since 20.08.2023. All the offences are exclusively triable by the Court of Magistrate and entire case of the prosecution



hinges upon documentary evidence, which have been collected by the IO during the course of investigation. It is also found out that the applicant has repaid the amount to most of the candidates as agreed between them. In the papers of the chargesheet, more than 300 witnesses have been cited and, hence, it would take considerable time to conclude the trial. I have considered the role attributed to the present applicant at the time of commission of crime and the co-accused, who have been considered by this Court. Therefore considering the above factual aspects and on the ground of parity, the present application deserves to be allowed.

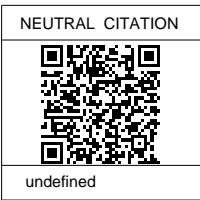
6. This Court has also taken into consideration the law laid down by the Hon'ble Apex Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**, reported in [2012] 1 SCC 40 as well as in case of **Satender Kumar Antil v. Central Bureau of Investigation & Anr.** reported in (2022) 10 SCC 51.
7. In the facts and circumstances of the case and considering the nature of the allegations made against the applicant in the FIR, without discussing the evidence in detail, *prima facie*, this Court is of the opinion that this is a fit case to exercise the discretion and enlarge the applicant on regular bail.
8. Hence, the present application is allowed. The applicant is ordered to be released on regular



bail in connection with the FIR being C.R. No.11196003230675/2023 registered with the Manjalpur Police Station, Vadodara City on executing a personal bond of Rs.50,000/- (Rupees Fifty Thousand only) with two surety of the like amount to the satisfaction of the trial Court and subject to the conditions that he shall;

- [a] not take undue advantage of liberty or misuse liberty;
- [b] not act in a manner injurious to the interest of the prosecution;
- [c] surrender passport, if any, to the concerned court within a week;
- [d] not leave the State of Gujarat without prior permission of the concerned court;
- [e] mark presence before the concerned Police Station on alternate Monday of every English calendar month for a period of six months between 11:00 a.m. and 2:00 p.m.;
- [f] furnish the present address of residence to the Investigating Officer and also to the Court at the time of execution of the bond and shall not change the residence without prior permission of this Court;

9. The authorities will release the applicant only if he is not required in connection with any other offence for the time being. If breach of any of the above conditions is committed, the concerned Sessions Judge concerned will be free to issue warrant or take appropriate action in the matter.



Bail bond to be executed before the lower Court having jurisdiction to try the case. It will be open for the concerned Court to delete, modify and/or relax any of the above conditions, in accordance with law.

10. At the trial, the trial Court shall not be influenced by the observations of preliminary nature qua the evidence at this stage made by this Court while enlarging the applicant on bail.
11. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(DIVYESH A. JOSHI, J.)

Gautam