

**ORDER BELOW EXH. 1 IN**  
**CRIMINAL BAIL APPLICATION NO. 5749/2021**

*Abhay Kumar Mishra*

Vs.

*State of Maharashtra (Through Cyber Police Station)*

*(CNR NO. MHPU01-012445-2021)*

1] This is first anticipatory bail application under Section 438 of the Code of Criminal Procedure, 1973, in connection with C.R. No. 46/2021 registered at Cyber police station for the offences punishable under Sections 420, 406 of the IPC and Sections 43[a][f][g][i], 66C, 66D of I.T. Act.

2] It is the case of the prosecution that, in June 2021 the informant who works as Consultant in S. G. Analytics company received call from his friend Abhishek Kumar that he has found one page on Instagram by name GMAT\_GRE\_SHORTCUT. The advertisements are given under banner of Dream Education Coaching Center that fixed marks can be obtained in GMAT, GRE, VIT BTech etc. as per the fees paid by the applicant. It was shown in the advertisement that more expectation of the marks, more will be the fees. The informant's friend suspected of some scam and therefore, borrowed laptop of the informant. It is the case of the prosecution that the informant agreed to help Abhishek Kumar. He allowed him to attend the examination from his own house and also allowed to use his mobile number. Accordingly, on 13-7-2021 one Pranav from Dream Education Coaching Center called the informant and told him that they can score maximum in GMAT. Accordingly, he sent package with guarantee for the amount of Rs. 3.5 lakhs for the score of 730+. The amount for the score increased as the score increased and vice versa. On the same evening number of informant was added in the WhatsApp group. The date of examination was fixed. On 14-7-2021 one link was sent to the WhatsApp group. The informant downloaded it. They were asked to download any desk App and also asked ID for the same. At about 9-45 p.m. one notification was found to approve incoming connection. When that option was clicked, the screen of the informant was shared. The Internet ID was also shown. The informant took screen shot , Internet ID as well as conversation done at that time. It is the case of the prosecution that the informant's friend could not give examination. However, informant completed the procedure. It is alleged that though the score was shown as 770 out of 800, practically nothing was done by the informant. The exam was given

virtually by third person. It is the case of the prosecution that thereafter the informant was asked to deposit the fees. He was told to pay Rs. 4 lakhs. Accordingly, the bank account number was also shared and he was told that fees should be paid in the block of Rs. 49,000/- per day. Thereafter, the informant told said Pranav that entire process is scam. They have operated sting operation and now going to lodge complaint against them. At that time said Pranav told that he is mere employee and his boss is Abhaykumar Mishra. He also shared phone number as well as bank account number of Abhaykumar Mishra. He also threatened that if they file complaint to the police they will leak recording of the exam given by them. The informant and his friend also received one recording wherein it is shown that they were giving exam. Since all the above things are scam, FIR is registered against Pranav and Abhaykumar Mishra.

3] It is the case of the applicant that the applicant is a Real Estate agent. He is falsely implicated in the case. There is no nexus between the applicant and so-called conversation of Pranav and informant. The applicant is ready to assist and give all support as and when required. Ld. Advocate for the applicant has argued that there are no criminal antecedents to the applicant. The proceedings are popped up out of blue. Since FIR is registered, there is apprehension of arrest. The bank account of the applicant is already freezed. No role is played by the present applicant in so called crime. Hence, protection be granted.

4] I.O. is present in the case. She has argued at length. She has stated that as per the information preliminary investigation is done and it is prima facie seen that major scam was under way under banner of Dream Education Coaching Center. She has argued that one WhatsApp group is prepared by Pranav who was acting under present applicant and various persons were called. She has argued that CDR report is called and prima facie involvement of co-accused Pranav is seen. I.O. has argued that as per the information given by co-accused Pranav the bank account number of the applicant was found. The I.O. has submitted that the account statement of said account is collected and it is seen that there are number of suspicious entries in said account. I.O. has stated that considering the nature of offence, it is necessary that physical presence of the applicant is procured. The laptop and other information is within personal knowledge of the applicant. Custodial interrogation of the applicant in this case is very much necessary. Considering the

contents in the FIR, a big scam can be revealed and therefore, this is not a fit case to grant protection of law to the applicant.

6] Ld. Advocate for the applicant has argued that the applicant is ready to appear before investigating agency and produce laptop and mobile and whatever necessary for the information. He has argued that since the applicant works as Real Estate agent, the entires found in his account number are regarding his commission fees. He has argued that he is ready to co-operate with the police and custodial interrogation is not at all necessary.

7] Heard both the Ld. Advocates at length. Perused the application and police papers.

6] On perusal of FIR and police papers, prima facie, it is seen that there was conversation between co-accused Pranav and the informant regarding the score in Online exams namely GMAT. It is seen that the test was taken which as per the informant was not given by him. He was merely present. The screen was shared and exam is given by someone else. It is seen that the fees are demanded and account number is also provided. I.O. has collected statement of said account number. The account belongs to present applicant. The applicant has not denied it. As per the I.O. certain suspicious entries are seen in the account and she needs to investigate regarding it. Considering the nature of offence, it is seen that there is possibility that number of other persons are cheated. The very advertise shows that fees will be decided as per the score wanted by the candidates. The rates of fees are decided accordingly. Considering the contents in the FIR, there is substance in the submissions of I.O. that detail investigation is warranted. Custodial interrogation of the applicant is necessary.

7] Considering the facts and circumstances of the case, this is not a fit case to grant protection of law to the applicant. Hence, I proceed to pass following order.

**ORDER**

1] Application Exh.1 is rejected.

Date : 21-9-2021

Sd/xxxx  
(V. A. Patravale)  
Additional Sessions Judge, Pune.

**CERTIFICATE**

“ I affirm that the contents of this PDF file are word to word as per the original order.”

Name of the Steno	:	Smt. R. S. Urde
Name of the Court	:	Smt. V. A. Patravale Adhoc District Judge 4 & Additional Sessions Judge, Pune
Date of Order	:	21-9-2021
Order signed by PO on	:	22-9-2021
Order uploaded on	:	22-9-2021

**ORDER BELOW EXH. 1 IN**  
**CRIMINAL BAIL APPLICATION NO. 7714/2021**

*Abhay Kumar Mishra*

Vs.

*State of Maharashtra (Through Cyber Police Stn., Pune)*  
*(CNR NO. MHPU01-016757-2021)*

1] This bail application is filed by the applicant under section 439 of Cr.P.C. in connection with C. R. No. 46/2021, under Sections 419, 420 of the IPC and Sec. 43[a][f][g][i], 66C, 66D of Information Technology Act registered at Cyber police station.

2] It is the case of the prosecution that on 10-9-2021 FIR is registered with Cyber police station that at the end of June 2021 one Abhishek Kumar Sabhajeet Singh told the complainant that there is one page on Instagram where advertises are given under the banner of Dream Education Coaching Center. It is stated that specific marks can be acquired in the exams of GMAT- GRE, VIT B-Tech by depositing the required amount of fees. It is the case of the prosecution that complainant's friend who is a journalist, became suspicious because no coaching center can assure for specific marks. Therefore, he decided to operate a sting operation. Accordingly, on 5-7-2021 his friend tried to give exam of GMAT on the laptop of complainant. It is the case of the prosecution that as there was electricity problem, exam could not be given on that day. Therefore, next day it was decided that the exam will be given from the house of the complainant. The complainant also gave Online exam. It is the case of the prosecution that number of complainant was given to one Pranav. On 13-7-2021 said Pranav called and assured that he would help to earn maximum score. He also sent message giving package details. The amount of fees varied as per the required marks. For example, above 720 marks fees was Rs. 3 lacs, for 710 marks fees was Rs 2.7 lacs etc.

3] It is the case of the prosecution that thereafter, said Pranav made WhatsApp group by the name 'Thursday'. On 14-7-2021 he sent a link with password. On 15-7-2021 when complainant was giving exam he found that his screen is shared and in fact another person is giving exam instead of him. The complainant took screen shots of the entire process. The provisional score was seen 770 out of 800. It is the case of the prosecution that thereafter, the complainant received call from said Pranav to deposit the money. The complainant was asked to

deposit Rs. 4 lacs and also informed that he should deposit Rs. 49000/- per day. The complainant told said Pranav about the sting operation and told them that they are going to lodge the complaint. Thereafter, said Pranav forwarded number of applicant. He also gave his bank accounts. He further informed that on 22-7-2021 the applicant is going to scam AIIMS Entrance exam. Hence, the complaint is given to Cyber Cell.

4] It is the case of the applicant that, he has not committed any offence and he is in no way concerned with the alleged offence. Investigation is over. The applicant is a business man and has no technical qualification of computer. Nothing is to be recovered or discovered at the hands of applicant. The investigation may be practically over. Hence, bail be granted to him.

4] Ld. APP has argued that the offence is of serious nature. The other accused are not yet found. The applicant is resident of Delhi. There is possibility that he may abscond. He may destroy electronic evidence. He may pressurize the witnesses, too. Ld. APP has argued that many hard working students give exams of GMAT- GRE, VIT B-Tech. However, due to scammers like applicant they are deprived of the fruits of their efforts. Investigation in the matter is not yet complete. Hence, bail should not be granted.

5] Heard both the Ld. Advocates at length. Perused the application as well as police papers.

6] It is seen that the applicant was arrested on 24-10-2021. Since 28-10-2021 he is remanded to MCR. On perusal of police papers, some account statements are given and also screen shots are taken. It is seen that the laptop of the applicant is seized along with pen drives. Further some account statements are produced. It is seen that except these papers, no papers are produced by the I.O. Nearly one month has passed since registering of FIR. It is seen that these papers were produced to oppose anticipatory bail. It is seen that there are no documents or case diary to show the progress of investigation. It would be pertinent to note here that unless any ground is given by I.O. which necessitates custodial interrogation of the applicant, bail of the applicant cannot be rejected. The only grounds to oppose the bail are that other accused are absconding and that applicant is resident of Zharkhand, therefore, he may abscond. These are not the proper grounds to deny the bail. The applicant is in jail for more than one month. Except any sufficient grounds are given by I.O. as to

why his custody is required, bail cannot be rejected.

7] Considering the facts and circumstances of the case, it is proper to release the applicant on bail on certain stringent conditions. Hence, I proceed to pass following order.

**ORDER**

- 1] Application is allowed.
- 2] Applicant Abhay Kumar Mishra shall be released on bail on execution of P.B. and S.B. in the sum of Rs. 25,000/- with one or two sureties of the like amount.
- 3] Applicant shall file on record the authentic proof of residence – both permanent and present.
- 4] Applicant shall not tamper with evidence or pressurize witnesses in any manner whatsoever.
- 5] Applicant shall attend the police station on third Sunday of every month between 11-30 a.m. to 3-30 p.m. till filing of the chargesheet and otherwise whenever required by the I.O.
- 6] Applicant shall not leave the jurisdiction of this court without prior permission of investigating officer in writing.
- 7] Applicant shall regularly remain present during the trial, and cooperate to complete the trial for the above offences.
- 8] The applicant shall maintain law and order.
- 9] The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the Investigating officer, and shall inform the change in residence if any.
- 10] If breach of any of the above conditions is committed, the order of bail shall stand cancelled.
- 11] Bail before concerned court.

sd/xxxx

Date : 30/11/2021

(V. A. Patravale)  
Additional Sessions Judge, Pune.

**CERTIFICATE**

“ I affirm that the contents of this PDF file are word to word as per the original order.”

Name of the Steno	:	Smt. R. S. Urde (Grade I)
Name of the Court	:	Smt. V. A. Patravale Adhoc District Judge 1 & Additional Sessions Judge, Pune
Date of Order	:	30-11-2021
Order signed by PO on	:	1-12-2021
Order uploaded on	:	1-12-2021