

IN THE COURT OF ADDL. CHIEF METROPOLITAN MAGISTRATE,
37TH COURT, ESPLANADE MUMBAI
BAIL APPLICATION NO. 1284 OF 2021
BAIL APPLICATION NO. 1285 OF 2021
C.C.NO. 251/PW/2021

COMMON ORDER

1. By way of present applications, accused Ripu Sudan Balkrishna Kundra @ Raj Kundra and Ryan John Michael Thorpe prayed for releasing them on bail.

2. As per the case of accused, they are falsely implicated in this crime and they have no active role in the participation of alleged crime. They are in custody since their date of arrest i.e. 19/07/2021. The material investigation to the extent of present accused is already completed. The charge-sheet has been filed after completion of investigation. The accused are residents of Mumbai and they ready to furnish surety for their appearance.

3. The bail applications have been strongly objected by the Investigating Officer as well as Learned APP. It is the contention of prosecution that there is sufficient substance against both accused. The offence is serious in nature. If the accused are released on bail, then they will abscond and tamper the evidence. Therefore, the accused are not entitled for bail.

4. Heard both sides. Perused the record. After perusal of charge-sheet, it appears that the allegations against the accused are that they are the mastermind of the alleged crime of broadcasting obscene



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videos through particular app. The sections applied in the charge-sheet are as follows :-

- i) 354-C of the Indian Penal Code which provides punishment upto three years and bailable.
- ii) 292 of the Indian Penal Code which provides punishment upto five years and bailable.
- iii) 293 of the Indian Penal Code which provides punishment for first conviction upto three years and bailable.
- iv) 420 of the Indian Penal Code which deal with cheating and provides punishment upto seven years and non-bailable.
- v) 66-E of the Information Technology Act provides punishment upto three years and bailable.
- vi) 67 of the Information Technology Act provides punishment upto three years and bailable.
- vii) 67 of the Information Technology Act provides punishment upto five years and non-bailable.
- viii) 3, 4, 6 and 7 of the Indecent Representation of Women (Prohibition) Act provides punishment less than three years and bailable.

5. After going through the charge-sheet, it appears that the statement of Megha Jaiswal has been recorded in order to connect the accused with the transactions of Vian Industries. However, from her statement only it can be gathered that transactions took place between Kenrin and Hotshot and out of said transactions, there was exchange of amount. However, exchange of amount is not an offence levelled against the accused in present charge-sheet. Entire charge-sheet shows that near about sixty four witnesses have been cited by the prosecution



and the charge-sheet runs into more than four thousand pages. It is better to mention here that the Investigating Officer has taken care to record the statement of witnesses U/sec. 164 of the Code of Criminal Procedure. Moreover, the server, laptops and mobile of Vian Industries are already in custody of the Investigating Officer. In such circumstances, it cannot be said that there is a possibility of tampering the evidence. Moreover, if the statements of witnesses are perused, then the element of inducement which is prime ingredient of cheating appears to be missing from the case of prosecution. At present, all the accused are already released on bail. In such circumstances, only on the ground that further investigation is going on, the accused cannot be kept behind bars till conclusion of trial. The offences nowhere provide the punishment more than seven years. The report of cyber expert is still awaiting. At present, investigation is completed as charge-sheet is filed on 15/09/2021. In case of **Sanjay Chandra V/s. Central Bureau of Investigation ((2012) 1 Supreme Court Cases 40)**, the Hon'ble Supreme Court observed that the accused cannot be kept behind bar for inconsiderable period when investigation is completed. It is better to mention here that the trial will take its own time and in such circumstances it will not be proper to keep the accused in custody, when they are ready to furnish surety for their appearance and to abide by conditions imposed by the court. So considering the facts and circumstances, I proceed to pass the following order :



ORDER

1. Applicants/Accused Ripu Sudan Balkrishna Kundra @ Raj Kundra and Ryan John Michael Thorpe are hereby released on executing their personal bond of Rs.50,000/- each with one or more sureties each of the like amount.

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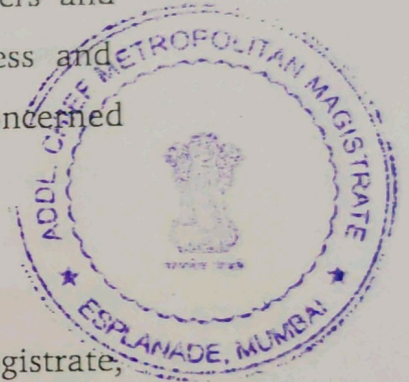
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2. Both accused are permitted to deposit the provisional cash bail of Rs.50,000/- each for the period of two months.
3. Both accused shall not directly or indirectly make any inducement, threat or promise to any other person acquainted with the facts of the accusations so as to dissuade him from disclosing such facts to the Court or to any police officer.
4. Both accused shall not leave India without prior permission of this Court.
5. Both accused shall submit the proof of their residence and two recent photographs each and also submit mobile numbers and landline numbers and shall intimate change of address and change of mobile and landline numbers, if any, to the concerned court and concerned police station.

(S.B. Bhajipale)

Addl. Chief Metropolitan Magistrate,
37th Court, Esplanade, Mumbai

Date : 20/09/2021



True Copy

Judicial Clerk,
Addl. Chief Metropolitan Magistrate's,
37th Court, Esplanade, Mumbai.

A/C-I
Cash Paid Rs.- 50,000/- each.
Vide Receipt No.: 01388974
0138898

Cashier
Esplanade Court
Mumbai

Application on : 21/09/2021

Ready on : 1

Charges pay on : 21/09/2021

Delivered on : 1