

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 160 of 2016

Maksud Ansari, S/o. Shri Ayub Ansari, Aged About 21 Years, R/o. Village Sunderjori (wrongly mentioned as Sindarjuri), Post Karmatad, P.S. & District Jamtada, Jharkhand.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Balod, Distt. Balod, Chhattisgarh.

---- Respondent

For Applicant : Mr. B.P.Singh, Advocate

For Respondent : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28.01.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.359/2015, registered at Police Station– Balod, District Balod (C.G.) for the offence punishable under Section 419, 420 of Indian Penal Code & Section 66, 66(D) of Information Technology Act.
2. Case of the prosecution, in brief, is that one Mahesh Ram Pisda lodged a report that on 23.07.2015 he received a phone call from the Mobile No.9800319985 for renewal of ATM and the caller discussed him that he is the Bank employee and thereafter the ATM number was disclosed. Subsequently, Mahesh Ram received an OTP number i.e. One Time Password, which was subsequently reconfirmed on the call of the caller and after a period of time it was recovered that an amount of Rs.9000/- has been debited from the

account of Mahesh Ram. On enquiry, it was found that the recharge of the mobile was done that of the applicant of Rs.300/- and further certain amount of Rs.500/- were transferred four times in the account of the applicant. Therefore, the applicant was arrested for the commission of alleged offence.

3. Learned counsel for the applicant submits that the applicant has been wrongly inculpated in this case, as seizure of mobile No.9003239028 and 45039171912 were made from the applicant and the call which was received by the complainant do not belong to the applicant, therefore, there is no direct evidence for commission of crime so as to inculpated the applicant. He further submits that the amount was wrongly been credited in the account of the applicant, for which he cannot be held responsible. He further submits that the charge sheet has been filed in this case and the applicant is in jail since 21.08.2015, therefore, he may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the evidence available on record. Prima facie there is no evidence of the fact that the call which was received by the complainant Mahesh Ram belong to the applicant. Considering the facts and circumstances of the case and taking into account the nature of allegation and degree of offence and further taking into fact that the charge sheet has been filed and the applicant is in jail since 21.08.2015, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

7. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
8. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Ashok