IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

BAIL APPLICATION NO.1076 OF 2016

Pankaj Suryaprakash Bharadwaj ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Niranjan Mundargi I/b. Mr.G.D.Jadhav, Advocate for the Applicant.
Mrs.Rutuja Ambekar, APP for the Respondent/State.
Mr.Sanjay Kate, PI, Dadar Police Station is present in person.

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CORAM : P. N. DESHMUKH J.

DATED : 2nd AUGUST 2016.

P.C.

1 This is an application by accused involved in Crime No.50 of 2016 registered by Dadar Police Station, Mumbai on 26/01/2016 for the offences punishable under Section 420 read with Section 34 of the Indian Penal Code and under Section 66(C) of the Information Technology Act, 2000.

2 Heard learned counsel for both the sides. It is submitted on behalf of the applicant that investigation in this Crime is complete and from the entire charge sheet, there is nothing to establish involvement of applicant with main accused Nasir Ansari, who according to the report, as well as that of case of prosecution is the person, who on using various ATM cards withdrew huge amount from various ATM machines, and is apprehended on the spot, while he was found withdrawing amount from one of the ATM situated at Prabhadevi, Mumbai.

It is further submitted that even there is no link of applicant with absconding accused Sumer Shaikh, to whom as per case of prosecution amount withdrawn by principal accused Nasir was forwarded through *Angadiya* from Mumbai to Delhi, as applicant, at the material time, was in service with one Company known as Bitcoin Online Services Limited Company at Delhi and as such was in noway concern with the amount so withdrawn by Nasir from the ATM and sent through *Angadiya* for absconding accused Sumer Shaikh at Delhi

3 Learned counsel for the applicant by referring to statements of Vishnukumar, Bhavesh, Jagatsing and all *Angadiyas* from Mumbai and New Delhi has contended that from their statements there is nothing to establish involvement of applicant either to withdraw amounts on the strength of bogus ATM cards or of his forwarding such withdrawn amount by *Angadiya* to Delhi. It is then submitted that at the most role attributed to the applicant is similar to that of *Angadiya,* who have on receiving amount sent from Bombay by *Angadiya* to Delhi has collected it on behalf of his Company and nothing more, and, as such, there is no reason for applicant to know the source of money, much less to know that the amount was sent through *Angadiya* by Nasir Ansari.

4 It is, thus, contended that in the background of available evidence against the applicant, as aforesaid, he be released on bail as the offence charged against the applicant being under Section 420 of the Indian Penal Code is punishable with imprisonment up to seven years, while offence registered under Section 66(C) of the Information

Technology Act is punishable for three years. It is also contended that in similar offence registered against applicant and others in State of Gujarat being Crime No.9 of 2016, he is released on bail by the learned 2nd Additional Sessions Judge, Surat, and has placed on record copy of order in that Crime.

5 The learned Additional Public Prosecutor opposed the application contending that there are in all four accused persons, out of which Nasir Ansari came to be apprehended on the spot as he was found withdrawing amount from ATM machine and on obtaining his personal search ATM cards of various banks and cash of Rs.1,00,000/- was seized from his possession, while his companion Nasim Yusuf Shaikh managed to flee away from the spot and is subsequently arrested. However, co-accused Sumer Shaikh is still absconding for whom, amount was withdrawn by Nasir Ansari from ATM Centers and was sent through *Angadiya* from Mumbai to Delhi, where applicant used to collect, from the *Angadiya* and was sending said amount into Bitcoins for online transaction to Sumer Shaikh. It is, thus, contended that since Sumer Shaikh is still absconding, applicant, in the event is released on bail shall assist him and in that event arrest of Sumer Shaikh would be impossible. It is also pointed out that from the bank statement of applicant, it is established that applicant has made certain transaction with absconding accused about 20 days prior to incident and after his arrest Rs.8,00,000/- came to be recovered from his house at his instance. In the background of involvement of applicant, as aforesaid, it is contended that application be rejected.

6 On perusal of report lodged by Security Guard IDBI Bank, it is revealed that about one month prior to the report, officers of said bank had instructed all the security guards, who were posted at the ATM Centers that one person who operates ATM by his left hand is frequently seen withdrawing amount from the ATM Centers situated at Prabhadevi Area and, as such, suspecting him all the Security Guards were made alert and were instructed, if such person is found, he should be enquired of his account number, ID card, ATM card etc., and if suspected was instructed to be detained till arrival of the police.

7 In the background of instructions, as aforesaid, on 25/01/2016 at around 12.00 midnight complainant found one person operating ATM at Prabhadevi with his left hand and, therefore, suspecting him was followed, who was then found to have entered in other ATM Center in the same locality. Complainant then on telephone alerted Security Guard Vishal Kadam, who was on duty at that ATM Center, about likelihood of same person operating machine with left hand. Within short time, said suspect also operated said ATM situated near Silver Apartment and withdrew the amount. In the meantime, complainant altered police, and while said suspect was about to enter into his car was apprehended by police, while one of the occupant of the car ran away from the spot.

8 On apprehension, he was brought to Police Station, and on interrogation was found having in his possession cash of Rs.1,00,000/- and ATM Cards of HDFC Bank, ICICI Bank, Central Bank of India, platinum card of HDFC Bank and his driving license having his name

thereon as Nasir Usman Gani Ansari and two cellphones having three sim cards.

9 From the statement of Vishnu Patel *Angadiya* at Mumbai involvement of accused Nasir is established, as he was indulged in sending amount ranging between Rs.1,00,000/- to Rs.2,00,000/- by *Angadiya* on five to six times prior to the incident. From this statement, it is also found that he used to send money to an *Angidiya* at New Delhi, namely Jagat Thakur to whom he knew since eight years as was also in *Angadiya* business. From the statement of Vishnu, it reveals that accused Nasir till the day of incident had sent amount to the extent of Rs.20,00,000/- to Jagat Thakur by *Angadiya*.

10 Similarly, the statement of Jagat Thakur reveals that on he was receiving amount by *Angadiya*, which amount was collected from him by applicant on five to six occasion prior to lodging of the complaint. His statement further reveals that on his inquiry with the applicant as to who was sending this amount to him from Mumbai, he did not reply saying that he has a Company in Mumbai. From above statements, involvement of applicant is, thus, found, who is found instrumental in collecting money received through *Angadiya* at Delhi, which amount is sent by co-accused Nasir Ansari through *Angadiya* after withdrawing the same on the basis of bogus ATM cards from ATM Centers.

11 The learned counsel for the applicant though by relying on order of Additional Sessions Judge, Surat has made an attempt to

submit that in a similar offence registered against applicant in Gujrat, he is released on bail, these arguments stand for no reason as on considering order of the learned Sessions Judge, no reason appears to have mentioned therein, while enlarging applicant on bail, except for contending that looking to the role of applicant in this regard and as there is no need of further interrogation, the application was allowed.

12 The learned Judge appears to have allowed the application saying that same needs to be allowed on thinking logically. In that view of the matter, I do not find it necessary to consider these aspects. In fact, from the offence registered at Gujrat, out of which that application is allowed, it reveals that there are complaints against the applicants, and there are also names and mobile numbers of various account holders from whose accounts amounts have been withdrawn on various dates.

13 In that view of the matter, it is, in fact, found that apart from applicant's involvement in this Crime, there is possibility of his involvement in similar other offences, during the course of investigation. In that view of the matter, if the applicant is released on bail, possibility of his tampering with the investigation and witnesses cannot be ruled out.

14 In the circumstances, application is rejected.

(P. N. DESHMUKH J.)