

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2310 OF 2017

Nikhil @ Surendrasingh Joginder Applicant
Pal Choudhary

Vs.

The State of Maharashtra Respondent

Mr. Ghansham S. Jadhav for the Applicant.

Mr. S.H. Yadav, APP for the State.

Mr. Santosh Bhagwat, Police Naik, Loni Kalbhor Police Station, Pune

Coram : Smt. Sadhana S. Jadhav, J.

Date : 4th January, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 19th May 2017 in Crime No.350 of 2017, registered at Loni Kalbhor Police Station for the offences punishable under Sections 420, 406 Indian Penal Code and Section 66(C)(D) of Information Technology Act, 2005. The investigation is completed and charge-sheet is filed against the applicant for the said offences.

3 It is the case of the prosecution that the applicant is original resident of Jammu & Kashmir. One Ms. Venisa Molina Huartaz, who is original resident of Spain was working as a language Teacher in Manipal University at M.I.T., Rajbaug Loni Kalbhor. That she was acquainted with the present applicant. They used to do a lot of shopping together.

4 On 19th May, 2017, Ms. Venisa lodged a report at the Police Station alleging therein that she was having three debit cards i.e. of Intentional Evo Bank of Spain, State Bank of India and H.D.F.C. Bank, Pune Branch. It is alleged that since the complainant used to go for shopping as well as to movie alongwith the present applicant, he had learnt her passwords. That on 15th May, 2017, she realised that two debit cards were missing. She suspected the accused as on one occasion, she had seen him searching her hand bag. She had then called for records from the banks and it had transpired that the applicant had withdrawn Rs.4,41,000/- during the period 7th March, 2017 to 13th May, 2017 from Evo Bank of Spain and State Bank of India. In further enquiry, it had transpired that the applicant had withdrawn Rs.1,40,000/- through ATM and had transferred Rs.50,000/- in his own account. On the basis of the said report, Crime No. 350 of 2017 is registered at Lonikalbhor for the offences punishable under Sections 420 and 406 Indian Penal Code.

5 On 9th November 2017, Hon'ble Shri. Justice A.S. Gadkari had inquired as to where the applicant would reside in the eventuality that he is enlarged on bail. Pursuant to the order dated 21st December 2017, the applicant had given the address of one Arjun Khedekar, resident of Pune. The address was verified by API, Dhawan. The statement of Arjun Khedekar is also recorded and he has disclosed to the police that he happens to be a close friend of father of the present applicant as they were working in the same Regiment of the Army. That Mr. Khedekar had disclosed to the police that the present applicant is known to him since childhood and that in the eventuality he is enlarged on bail, he would reside with Arjun Khedekar and would not visit Jammu & Kashmir during the pendency of the trial. In view of this, without going into the merits of the matter, the applicant is being enlarged on bail. There is a huge pendency of the cases in the Sessions Court at Pune and both the offences are triable by the Magistrate.

6 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

- 1 The application is allowed.
- 2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- 3 Upon being enlarged on bail, the applicant alongwith Mr. Arjun Khedekar shall give an undertaking to Loni Kalbhor Police Station that the applicant would not leave Pune during the pendency of the trial.
- 4 The applicant shall report to Loni Kalbhor Police Station on every Sunday between 10.00 am to 12.00 noon till the trial is concluded.

(Smt. Sadhana S. Jadhav, J)