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

CRIMINAL BAIL APPLICATION NO.1347 OF 2019

Thiviyan Vivekanathan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.D.B.Shinde, for the Applicant.

Ms. Veera Shinde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 26th SEPTEMBER, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-15 of 2019 registered with the Koparkhairane Police Station, Thane, for the alleged offences punishable under Sections 420, 465, 468, 471 r/w 34 of the Indian Penal Code and under Sections 66 (c), 66 (d) and 43(a)(b) of the Information Technology Act.
3. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant. The same is taken on record. In the said

affidavit-cum-undertaking, the applicant has undertaken not to commit any offence much less a similar offence, in future.

4. Learned APP states that stringent conditions be imposed, considering the fact that the applicant is not a resident of Maharashtra, but, is a resident of Chennai and has a similar antecedent.

5. Perused the papers. According to the prosecution, the applicant and co-accused used advanced method for commission of the crime by fixing a spy camera in the ATM Machine and with the help of a scammer obtained the pin code of the customers and illegally withdrew money from the said account. It is further alleged that the accused persons prepared forged ATM cards and withdrew various amounts from the said ATM Machines. Pursuant to the secret information received by the police officer of Unit – X, DCB, Crime Branch, Mumbai, on 1st January, 2019, a trap was laid and the applicant and co-accused were arrested outside an ATM Machine. From the applicant's person, scammer cards, spy cameras and magnetic strip card was found, pursuant thereto, an offence was registered as against the accused. It appears from the CCTV footage i.e. with respect to the withdrawal of amounts by the accused, that the applicant is not seen in the said CCTV footage. It appears that the CCTV

footage show the presence of another co-accused in the CCTV camera, whilst withdrawing the money. It appears that there is a similar antecedent as against the applicant. It appears that when the applicant was arrested, his complicity was disclosed in the present C.R. pursuant to which, the applicant was arrested and transferred in the present C.R. The applicant is in custody since January, 2019. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the application is allowed on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. and 11:00 a.m., till the conclusion of the trial;
- iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court

as well as to the concerned Police Station, in writing;

iv) The Applicant shall not leave the jurisdiction of Mumbai and Thane City, without the permission of the trial Court;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

7. The Application is allowed and disposed of in above terms.
8. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.