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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1168 OF 2019

Arfat Akbar Hussain .Applicant

Vs.

The Senior Police Inspector, Crime Branch, Thane & anr. .Respondents

Mr. Mateen Shaikh, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondents – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.07.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 41 of 2019 registered with the Cyber Cell Crime Branch Police Station, Navi Mumbai, for the alleged offences punishable under Sections 420, 465, 468, 471, of the Indian Penal Code and under Sections 43, 66 & 66(C) of the Information Technology Act.

3. Learned counsel for the Applicant submits that the Applicant has not been named in the FIR and as such, his name cropped

up only after the arrest of co-accused – Ms Sharanjeet Kaur. He submits that there is no material to connect the Applicant with the alleged offences.

4. Learned APP has filed has filed an Affidavit of Bhausaheb B. Gaikar, Senior Police Inspector, Cyber Cell, Crime Branch, Navi Mumbai. He submits that the Applicant is the master mind of the case and hence, custodial interrogation of the Applicant is necessary.

5. Perused the papers. According to the Complainant – Amruta Kunal Shelar, she was using an ATM Debit Card. She has stated that on 14.01.2019, when she woke up at about 5.00 a. m. as usual, she checked her mobile and found that ICICI Bank had sent messages on her mobile showing four transactions having taken place and withdrawal of total amount of Rs. 88,000/- from her account. Pursuant thereto, the Complainant made a phone call to the customer care of ICICI Bank and requested them to block her ATM card, stating that an amount of Rs. 88,000/- was fraudulently withdrawn from her account. According to the Complainant, she had used her ATM Card in a Saloon at Vashi for Rs. 300/-. Pursuant to the FIR / complaint lodged by the Complainant, the aforesaid C. R. was registered initially with the Nerul

Police Station, Navi Mumbai and was subsequently, transferred to the Cyber Cell Crime Branch Police Station, Navi Mumbai. Pursuant to the said complaint, the police visited the Saloon where the Complainant had visited, checked the CCTV footage of the persons serving in the Saloon, made enquiry at the reception counter. During investigation, it was revealed that one employee by the name Ms Sharanjeet Kripal Singh Kaur was absent. The police obtained Ms Kaur's address and made enquiry with her. On making enquiry, Ms Kaur gave evasive answers, pursuant to which, she was brought to the Cyber Cell, Crime Branch. According to the prosecution, Ms Kaur disclosed that she alongwith the present Applicant had cloned the Complainant's ATM Card. Ms Kaur disclosed that the Applicant gave a Schemer machine (Cloning) to her and that on the said machine, she would clone the data of the customers' Debit and Credit cards. On 20.01.2019, Ms Kaur was arrested. Several statements of witnesses were recorded. During the course of investigation, the police seized DVR of the CCTV footage of the said saloon under a panchanama. During the course of investigation, the police arrested six accused persons. It appears from the investigation, that the Applicant had purchased blank plastic cards from Amazon Company online and had also purchased DMR machine and a schemer machine, online from Easy MSR.com website. In the course of investigation, the police also obtained information from Amazon, with respect to blank cards / chips cards purchased by the Applicant from the said website, which clearly revealed that the said cards were purchased by the Applicant. It appears that after purchasing the said blank cards with the help of Schemer and DMR machines as well as blank plastic cards, customers credit and debit cards were cloned and money withdrawn. It appears that the Applicant alongwith others cloned customers' Debit and Credit Cards and withdrew money from various ATMs to the tune of Rs. 20,00,000/- to Rs. 25,00,000/-. The Schemer, DMR machines and Applicant's Laptop are yet to be seized.

6. Having regard to the facts, custodial interrogation of the Applicant is warranted. Hence, this is not a fit case to grant pre-arrest bail to the Applicant. Accordingly, the Application stands rejected.

7. It is made clear, that the observations made herein are *prima facie* for deciding the aforesaid Application and if an Application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

(REVATI MOHITE DERE, J.)