

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

CRIMINAL BAIL APPLICATION NO. 2229 OF 2018

Milcho Goshev Angelov

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. Chaitanya Malgaonkar a/w Mr. Narmata Maru & Khushal Padolia for the applicant.

Mr. S.R. Agarkar, APP for the Respondent-State.

Mr. Jogdand, API, Cyber Police Station, B.K.C. is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th FEBRUARY, 2019.

P.C.

1. This is an application for bail in connection with C.R. No. 14 of 2017 registered with Cyber Police Station, Bandra Kurla Complex, Mumbai for the offence punishable under Sections 419 and 420 of the Indian Penal Code alongwith Sections 66(C) and 66(D) of Information Technology Act.

2. The prosecution case is that on 1st April, 2017 and 4th April, 2017, the complainant had received e-mails from Ketan Prajapati, the clearing team-Assistant Manager, HSBC Bank, Juhu Branch stating that he had found a gold colored duplicate plastic card near HSBC Juhu Branch at the adjoining ATM Center bearing ATM ID No. A-814. Upon finding the said card, Katan Prajapati

requested the complainant for CCTV footage from the Security Control Center and upon examining the said CCTV footage the complainant found that a foreign national with more than one golden colored ATM card was trying to withdraw cash using the said golden ATM card from the said ATM center. Upon being satisfied that the cards used by the said foreign national were duplicate, complainant intimated the said information to his senior officers and subsequently FIR was registered. Applicant was arrested on 15th April, 2017. Investigation is completed and chargesheet has been filed.

3. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. There is no cogent evidence against the applicant showing his involvement in the crime. Applicant was arrested on 15th April, 2017 and since then he is in custody. It is further submitted that charge was framed against the applicant on 11th October, 2017 and inspite of that the trial has not commenced. It is further submitted that applicant is entitled for bail in accordance with Section 437(6) of Code of Criminal Procedure. Learned counsel placed reliance upon the decision of this Court in the case of Tarkeshwar

Goraknath Pandey Vs. State of Maharashtra¹. In the said decision, the Court has held that in the event of delay in conducting the trial after the matter is listed for examination of witnesses, the applicant is entitled for bail.

4. Learned APP submitted that there is sufficient evidence against the applicant showing his involvement in the crime. It is submitted that applicant is foreign national. It is further submitted that evidence collected by the Investigating machinery during the course of investigation shows the involvement of the applicant in the crime. It is further submitted that charge has been framed and trial would commence immediately. Although the charge was framed, for some reasons the trial would not be proceeded because the applicant had preferred application for change of advocate as well as application for bail during the pendency of the trial. It is further submitted that Rojnama indicates that for genuine reasons the trial could not be proceeded.

5. I have perused the documents on record. It is settled principle of law that in accordance with the Section 437 (6) of Code of Criminal Procedure, bail can be granted. However, it is not mandatory that in every case bail has to be granted. In the

1. 2012 Bom CR (Cri.) 569

present case, it is noticed that there is sufficient evidence against the applicant showing his complicity in the crime. It is noted that applicant is a foreign national and he may not be available in the event if bail granted to the applicant. It is further noted that in the Rojnama that charge was framed on 11th October, 2017. For the reasons stipulated in the Rojnama, the trial Court could not proceed with trial. Considering the aforesaid circumstances, I do not find the case for grant of bail is made out. Hence, Criminal Bail Application is rejected.

6. It is expected that the trial Court would endeavour conclude the trial as early as possible. Prosecution to adduce the evidence of the concerned witnesses before the trial Court. The trial Court shall make an endeavour to conclude the trial within a period of one year from the receipt of the order.

(PRAKASH D. NAIK, J.)