IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPPLICATION NO.3059 OF 2018

Mohd. Arman Mohd. Salam Shaikh,
Age 21 years, Occ.Business, R/o.Banauliya
Vard No.25, 713, Ganga Nagar,
Near Railway Station, Biharsharif,
Dist.Nalanda-803 101, Bihar. Applicant
versus
The State of Maharashtra Respondent

Mr.Mateen Shaikh with Ansar tamboli for applicant.
Mr.S.R.Agarkar, APP, for State.
Mr.Amol Mali, PSI, Dharavi Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th January 2019

PC :

1. The applicant is arrested in CR No.228 of 2018 registered with Dharavi Police Station for offences u/s 420 r/w Section 34 of Indian Penal Code, and under Section 66(D) of Information and Technology Act. The applicant was arrested on 6th July 2018 and from time to time he was remanded to custody. Investigation is completed and charge sheet is already filed.

2. The prosecution case is that the complainant wanted to start business of Patnanjali Products and desired to take agency. On 18th July 2018 the complainant's son searched through Google as to how to get agency of Patanjali and on noticing one mobile number reflected on the internet, the complainant gave click on the said number and inquired about dealership for Patanjali Products. The

son of the complainant received call from a person who disclosed his name as Santosh Bharti from Patanjali Agency and requested for certain documents. On 23rd April 2018 the complainant's son received a call and he was asked to deposit Rs.25,000/- towards registration fees which was deposited by him. It is further alleged that on 26th April 2018 complainant's son received another call and he was asked to deposit further amount. The complainant had deposited Rs.5,30,000/-. It was subsequently noticed that the complainant and his son were cheated and hence FIR was lodged. The name of applicant is not appearing in the FIR. It is alleged that the applicant was found in possession with debit/ATM card belonging to accused no.1 and that the applicant has withdrawn the amount from the said account. Learned counsel for applicant submitted that there is no evidence to show complicity of applicant in the crime. He was not party to the false representations allegedly made by the co-accused to the complainant. The applicant is in custody from the date of arrest.

3. Learned APP opposed the application for bail. It is submitted that the applicant's involvement is apparent. He had withdrawn the amount. The ATM card belonging to the co-accused was found in his possession. The applicant is party to the commission of crime.

4. On perusal of the documents it is clear that the name of the applicant is not appearing in the FIR. He is not attributed with any role to cheat the complainant by making false representations. The evidence against the applicant is alleged recovery of ATM card by which the amount was withdrawn. Considering the role assigned to the applicant it is required to be considered whether the applicant is

in custody since July-2018. Investigation is completed and charge sheet is filed. Further detention of the applicant is not necessary.

5. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.3059 of 2018 is allowed and disposed off;

(ii) The applicant is directed to be released on bail in connection with CR No. 228 of 2018 registered with Dharavi Police Station, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report Dharavi Police Station once in a month on every first Saturday between 11 am and 1 pm;

(iv) The applicant shall furnish details about his residential address and mobile number to the investigating officer after he is released on bail;

(v) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason;

(vi) The applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of two weeks.

(PRAKASH D. NAIK, J.)

MST