

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 4955 of 2021

- Khirod Patel, S/o Biranchi Patel, Aged About 36 Years, Occupation Agriculture, Caste Obc, R/o Village Tanmura, Near Jatra Mandap, Police Station Mahulpali District Sambalpur, Orissa. **---- Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer Police Station City Kotwali, Bilaspur, Chhattisgarh. **---- Non-Applicant**

For Applicant : Mr. Sushil Dubey, Advocate
For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. A.G.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

30.07.2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 30.12.2018 in connection with Crime No.550/2018 registered at Police Station- City Kotwali, District- Bilaspur (C.G.) for the offence punishable under Section 420, 468, 120-B and 34 of IPC.
- 2) Case of the prosecution, in brief, is that the present applicant alongwith other co-accused person fraudulently obtained details of the ATM Card of the complainant from the ATM of State Bank of India main branch, near old High Court Bilaspur by using Device Camera on the ATM, made clone of ATM card and withdrew Rs. 25,000/- from the account of the complainant by using cloned ATM card. On report being lodged to the above effect, the aforesaid offence has been registered against the present applicant.
- 3) Learned counsel for the applicant submits that the applicant has

been falsely implicated in the crime in question, he further submits that the co-accused namely Paul has already been released on bail by the co-ordinate Bench of this Court vide order dated 21.09.2020 in MCRC No. 5593 of 2020. Charge-sheet has already been filed, the applicant has only two criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding the applicant has been arrested on 30.12.2018 and due to Covid-19 trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.

- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application and submits that the applicant has two criminal antecedents of similar nature.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicant, the fact that co-accused person has already been released on bail by the co-ordinate Bench of this Court, charge-sheet has already been filed, the detention period of the applicant, who is 36 years old and there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and due to Covid-19 conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 6) It is directed that in the event of the applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail, on following conditions :-
 - (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
 - (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(iv) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Nadim