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HIGH COURT of CHHATTISGARH, BILASPUR

MCRCA No. 1118 of 2021

- Nilesh Kumar S/o Shri Chandraprakash aged about 32 years, occupation-Office Assistant (C.G. State Gramin Bank, Brnach Kedma), R/o Village Gandhinagar, P.S. Gandhinagar, Tahsil Ambikapur, District Surguja, Chhattisgarh

------Applicant

VERSUS

- State of Chhattisgarh through: SHO Police Chowki Kedma, Police Station Udaipur, District Surguja, Chhattisgarh

-------**Non-applicant**

For Applicant	:	Mr. Shakti Raj Sinha, Advocate.
For Non-applicant- State	:	Mr. Vimlesh Bajpai, Govt. Adv.

Hon'ble Shri Parth Prateem Sahu, Judge

ORDER ON BOARD

15/09/2021

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 110/2021 registered at Police Chowki Kedma, Police Station Udaipur, District- Surguja (C.G.) for the offence punishable under Sections 409, 419, 420, 467, 468, 471, 120B of IPC.

2. As per case of prosecution, Chhattisgarh Rajya Gramin Bank lodged a written complaint to outpost Kedma of Police Station Udaipur mentioning that at the time of inspection of Branch Kedma (60108) had detected that Nilesh Kumar, Office Assistant of Branch Kedma received 50 ATM cards from Regional Office out of which only 49 ATM cards were submitted by him in the Branch mentioning that 01 ATM card bearing number 6077747000265554 has been lost. In further enquiry, it revealed that the aforementioned ATM card which was stated to be lost has been issued for the Bank account number

70001793407. No valid application Form for issuance of that ATM card on that account was found in the Branch Kedma. The account holder of aforementioned bank account was Smt. Jugri Bai having its account at Branch Dandgaon from which Rs. 10,000/- was withdrawn. From the aforementioned ATM stated to be lost Rs. 413500/- has been withdrawn illegally from the account of Jugri Bai. The enquiry officer suspected the applicant to be involved in commission of crime. It was further mentioned that Jugri Bai died on 12.08.2020 and son of late Jugri Bai has intimated that they have not visited Branch at Kedma for any transaction nor have submitted any application for issuance of ATM card. It further revealed that total 61 transactions have been done during the relevant period of which 41 transactions found to be correct and from 20 suspected transaction six account holders were dead prior to withdrawal of money from their bank accounts and 4 account holders stated that they have not received any money. Based on the written report aforementioned crime was registered against applicant and one Bholanath Sawaiya, the then Branch Manager.

3. Mr. Shakti Raj Sinha, learned counsel for the applicant would submit that the applicant is not involved in commission of any crime. He submits that ATM car is being supplied by the Regional Office directly to the account holders and only when ATM card could not deliver to them then only those ATM cards come to the Branch where the accounts have been opened. Applicant has reported to the office with regard to lost of one ATM card. If any amount is withdrawn from the lost ATM then the applicant could not be connected with it in any manner if it is committed by any other person. Applicant has not misappropriated any amount and the allegations have been levelled in the complaint against applicant are without any evidence. In the

complaint it is mentioned that about 6,00,000/- odd amount has been fraudulently withdrawn from the account but there is no material to show that applicant has committed any offence as alleged against him, hence, he may be enlarged on bail.

4. On the other hand, Mr. Vimlesh Bajpai, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that the bank officials during the course of investigation have found that Nilesh Kumar (applicant) accepted 50 ATM cards from the Regional office and out of which only 49 ATM cards were submitted in the Kedma branch and one ATM card stated to be lost but was found issued in the name of Jugri Bai holding account number 70001793407 and from her account Rs. 4,23,500/- has been withdrawn at different point of time from different ATM machines. The applicant has given false report of missing of one ATM card and has been found subsequently to be issued in the name of Jugri Bai. Application Form requesting issuance of ATM card in name of Jugri Bai was not available, it is applicant being office assistant of Branch at Kedma who is responsible for accepting application from the account holder for issuance of ATM cards. There is prima facie involvement of applicant in commission of crime as mentioned in the report submitted by present Branch Manager of C.G. Rajya Gramin Bank, Kedma, hence, applicant is not entitled for grant of anticipatory bail.

5. I have heard learned counsel for the respective parties and also perused the case diary.

6. Present Branch Manager has lodged report on 09.08.2021 based on the investigation report of the officials of CG Rajya Gramin Bank. Taking into consideration the nature of allegations levelled against

applicant in the written report and FIR as well as considering the fact that the amount has been fraudulently withdrawn through ATM card which was found missing from the possession of applicant and further the amount was also withdrawn from the account of dead person, applicant being the bank employee and having authority to disburse less than 20,000/- as Office Assistant, I do not find it a fit case to enlarge the applicant on anticipatory bail.

7. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan