

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 584 OF 2020**

Javed Wazeed Khan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. S. R. Samel a/w Mr. P. K. Sanghrajka, Advocates for Applicant.
Smt.M. H. Mhatre, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.**DATE : 20th November, 2021.****PC. :**

1. This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No.I-25 of 2019, dated 5th March 2019, registered with Pimpalgaon Police Station, District Nashik, for the offence punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code and Section 66(c) and (d) of the Information Technology Act.

2. Heard Mr. Samel, learned counsel for the Applicant and Smt.Mhatre, learned A.P.P. for the Respondent-State. Perused charge-sheet.

3. The First Information Report is lodged by Mr. Santosh N. Pachorkar. It is the prosecution case that, the informant had been to the ATM of Union Bank of India, near Pimpalgaon Bus Depot on 1st March, 2019 and

withdrew Rs.1000/- from his account. At that time, two Hindi speaking persons standing behind him, told him to cancel the said transaction and directed to follow a particular procedure. Informant, accordingly followed their instructions to cancel the said transaction and left the said ATM. On 3rd March 2019, in the morning, when the informant checked his mobile phone, he received messages that at about 4.18 am from his ICICI Bank account Rs.40,000/- have been withdrawn by somebody. He therefore got suspicious about the said unknown persons, who were standing behind him on 1st March, 2019 at the ATM of Union Bank of India, near Pimpalgaon Bus Depot. In this brief premise, the present crime is registered.

4. The record of investigation indicates that, the Applicant in connivance with two co-accused cloned the ATM card number of the informant and withdrew Rs.40,000/- from his bank account. It appears that, there are three other victims of the said *modus operandi* adopted by the Applicant. The investigation of the present crime is completed and police have submitted charge-sheet on 2nd July, 2019 in the Court of competent jurisdiction.

5. The present Application was heard at length by my predecessor-in-title on 28th September, 2021 and in view of the deliberation which took place on that day, the Applicant was directed to file an Affidavit-cum-undertaking to this Court stating that, if Applicant is released on bail he will

not indulge in aiding, abetting or commission of any other offence. That, he will not leave the jurisdiction of Nashik District till conclusion of the trial of present crime, i.e. C.R. No.25 of 2019 registered with Pimpalgaon Police Station, Nashik.

Learned Advocate for the Applicant accordingly tendered across the bar an Affidavit dated 1st October, 2021 of the Applicant, which is duly affirmed before the Circle Jailor, Nashik Road Central Prison, stating the aforestated facts. The said Affidavit dated 1st October 2021 is taken on record and marked 'X' for identification.

6. Applicant is arrested in the present crime on 4th April, 2019 and has undergone more than two and half years of pre-trial incarceration. The trial of the present case has not yet commenced. After taking into consideration the nature of offence; the fact that the investigation of the present crime is completed and there is no possibility of completion of trial of the present case in near future, the Applicant can be released on bail.

7. Hence the following Order :-

- (i) Applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one or more solvent local sureties in the like amount.
- (ii) After release from jail, till conclusion of trial of the present case, the Applicant shall not leave the jurisdiction of Nashik

District without prior permission of the Trial Court.

- (iii) Before his release from jail, the Applicant shall furnish documents of his residence where he proposes to reside after his release from jail to the Investigating Officer so also before the trial Court.

After receipt of the said papers, the Investigating Officer will immediately verify its genuineness and will submit a report to the Trial Court accordingly.

- (iv) Applicant shall attend each and every date before the trial Court unless precluded for medical reasons or exempted by the Trial Court.
- (v) Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

- 8. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

MANOJ R
TANDALE

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