

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATOIN (BA) NO. 176/2021

Asif Khan S/o Jumma Khan & anr.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R. M. Daga, Advocate for applicants.
Ms. S. S. Jachak, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : 06.04. 2021.

Hearing was conducted through Video
Conferencing.

2. Both applicants were arrested by the Police Station of Ranapratap Nagar, Nagpur in Crime No. 216/2020 for offence punishable under Sections 461, 380, 201 read with Section 34 of the Indian Penal Code. The applicants are claiming bail by stating that after their arrest in Crime No. 624/2020 registered at Nandanwan Police Station, Nagpur, the Police have registered some more offence and lastly their custody was taken in existing crime. It is argued that though total six crimes of similar nature for the offence punishable under Section 380 of the Indian Penal Code were registered, except existing crime in all other

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offences, the applicants were released on bail by concerned Trial Court and mostly by the Judicial Magistrate. Learned Advocate for applicant has submitted that in all other parallel matters, the then Court has considered the opposition on the point that applicants are not resident of Maharashtra State and there is likelihood of repetition of crime. The State resisted bail by submitting that the applicants have committed serious offence of tampering ATM Machine and committing theft of huge amount to the tune of Rs. 12.47 lakhs. Moreover, it is submitted that the applicants after release, they may repeat the similar nature of crime.

3. It is the prosecution case that the applicants have tampered ATM machine and had withdrawn huge cash by using different Credit/Debit Cards. As such, the applicants have committed theft of huge public money and it was their modus. Admittedly, investigation is complete and charge-sheet has been filed. In rest of the five similar offences, the applicants are released on bail during last three months. The State has not challenged those orders. I do not find any reason to carve out any exception about this crime when all the crimes are of similar nature. The offences are triable by magistrate and trial will take its own time for disposal. However, to deter the

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applicants from repeating the crime, certain stringent conditions are required. Moreover, as accused/applicants are hailing from Haryana State, sufficient surety has to be taken to secure their presence at the trial. In view of that, following order:-

(I) Application stands allowed.

(II) Applicants/accused namely Asif Khan S/o Jumma Khan and Shahadat Khan S/o Khan Mohammad be released on bail on their furnishing P.R. Bond of Rs. 1,00,000/- with one solvent surety in the like amount each.

(III) Applicants shall attend concerned Police Station on every alternate Monday in between 10.00 a.m. to 12.00 noon till conclusion of trial.

(IV) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE

Gohane.