

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.19925 of 2022**

Arising Out of PS. Case No.-93 Year-2022 Thana- AURANGABAD TOWN District-  
Aurangabad

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PANKAJ KUMAR SHARMA Son of Late Parmeshwar Sharma Resident of  
Village - Balikarna, P.S.- Jamhore, Distt.- Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Singh  
For the Opposite Party/s : Mr.Ramchandra Sahn

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**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL ORDER**

3      28-09-2022                      Heard learned counsel for the petitioner and learned  
A.P.P. for the State.

The petitioner seeks bail in connection with  
Aurangabad (Town) P.S. Case No. 93/2022 registered for the  
offences punishable under Sections 420/379 of the Indian Penal  
Code.

As per prosecution case, on 23.02.2022, the informant  
inserted his ATM card into the ATM machine for withdrawal of  
money which got struck there. On intimation, a guard from the  
Axis Bank came there who disclosed his name Pankaj Kumar  
Sharam (petitioner). The petitioner told the informant to go to  
home and assured him that after withdrawal of his ATM card  
from the ATM machine he will handed it over to the Bank.



Subsequently, petitioner shut down the shutter of the said ATM. At about 12:33 hour, petitioner informed the informant that withdrawal is being done from his ATM Card. It is alleged by the informant that Rs.1,89,000/- has fraudulently been withdrawn from the account of the informant by the petitioner.

Learned counsel for the petitioner submits that petitioner is innocent and has falsely been implicated in this case. The petitioner is working as a guard under an organization namely Modern Security Force Private Ltd. and on the date of alleged occurrence was posted as a guard in Axis Bank, Aurangabad Branch. The duty of petitioner was confined to the bank premises i.e. of Axis Bank, Aurangabad Branch and has nothing to do with the affairs of ATM machine which is running under the Supervision of Hitachi Company. The petitioner is languishing in custody since 24.02.2022 and bears no criminal antecedent. No incriminating article has been recovered either from the conscious possession or from the house of the petitioner. Learned counsel for the petitioner through supplementary affidavit submits that from perusal of the Video footage and photograph as mentioned in para 7, it appears that the petitioner was neither present at the time of the occurrence in the ATM machine nor was present in the Aditya Vision Shop.



Charge sheet has been submitted in this case and there is no likelihood of tampering with the prosecution evidence.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

The trial report vide letter no.113/2022 dated 27.07.2022 reported that cognizance has been taken under Sections 420 and 379 of the Cr.P.C.

Considering the facts and circumstances of the case, period of custody, argument advanced on behalf of both sides, charge sheet has already been submitted in this case and there is no likelihood of tampering with the prosecution evidence and keeping in view clean antecedent of petitioner and also taking into consideration the material available on record, let the petitioner above named be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Aurangabad in connection with Aurangabad (Town) P.S. Case No. 93/2022, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain



present on all dates and absence for two consecutive dates without appropriate permission, would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

**(Alok Kumar Pandey, J)**

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