**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO. 729 OF 2021**

Sudhirkumar Amrutlal Kushwaha
..vs..
State of Maharashtra, thr. P.S.O.

| Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders | Court's or Judge's orders |
|---|---|

Mrs. Shilpa P. Giratkar (Giripunje), Advocate for the applicant.
Shri S.D. Sirpurkar, A.P.P. for non-applicant/State.

**CORAM : VINAY JOSHI, J.**
**DATED : 05/01/2022**

Heard.

2. In anticipation of arrest in Crime No.248 of 2021 registered with Bhadrawati Police Station, District Chandrapur for the offence punishable under Section 420 of the Indian Penal Code, the applicant has prayed for pre-arrest protection on account of innocence, false implication and inadequacy of evidence. The non-applicant-State resisted bail by filing affidavit-in-reply.

3. The report is lodged by the Branch Manager of the State Bank of India relating to commission of crime. It is the prosecution case that State Bank of India received the complaints of customers under the Complaint Management System (CMS) about non-receipt of amount through A.T.M. machine. To facilitate smooth functioning of A.T.M. machines, the facility was provided to the customers to raise their grievance by way of Online CMS system about non-

receipt of money. As per rules, if the online complaint is not solved within 48 hours, then through system the amount complained, is directly credited in the account of customers through Bank.

4. It is the grievance that during the period from February 2021 to 12th March 2021, amount of Rs.8,05,500/- was withdrawn, which was deposited in the customers account on the basis of online complaints. On deeper scrutiny, it was found that there are 84 online complaints about non-receipt of money which were suspicious. On further inquiry and by verifying CCTV footage, it was found that those customers have received the amount, however, lodged a false online complaints and thus cheated the Bank.

6. During the course of investigation, it was found that 20 accounts were open in different Banks and 5 A.T.M. cards were repeatedly used for withdrawal of the amount. CCTV footage specifies that though online complaint were made, however, the amount was received by the customers. During the investigation, co-accused Shubham Kushwaha was arrested. He has discloses the modus in which he along with his associates including applicant have duped the Bank. It is informed that they repeatedly used the A.T.M. cards for withdrawal and on receipt of amount, immediately, they used to make online complaint about non-receipt, by taking disadvantage that the System was not functioning for some days. It is also

informed that the applicant has purchased a Swift Car for commuting to other A.T.M and accordingly they have duped. *Prima facie,* the applicant involvement is evident. It is a case of online fraud. Public money has been duped for personal gain. The modus and manner itself discloses that it was a well designed plan to dupe the Bank. CCTV footage collected during the course of investigation, strongly supports the prosecution case. The investigation is at primary stage. The Police want to seize different A.T.M. cards used for the purpose of cheating. If, at this stage protection is granted, then investigation would be badly hampered. The applicant is the resident of State of Uttar Pradesh and his presence may not be secured for the purpose of investigation and trial. Considering the seriousness of accusation and particularly, execution of fraud in pre-planned manner, the matter needs thorough investigation. In view of that, application carries no merits, hence, stands rejected.

**JUDGE**

*Trupti*