

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

932 BAIL APPLICATION NO.814 OF 2023

PANKAJ KISHOR CHAUDHARI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Jakhade Rutuja L., Mr. Kulkarni
Suniket Anil.
APP for Respondent-State : Mr. S. P. Deshmukh.
...

CORAM : S. G. MEHARE, J.
DATE : 14.06.2023

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is seeking bail in Crime No.796 of 2022, registered at Nandurbar City Police Station, District Nandurbar, for the offences punishable under Sections. 409, 379, 381, 201 read with Section 34 of the IPC.
3. Learned counsel for the applicant would submit that the applicant is not a public servant. Hence, Section 409 of the IPC would not attract. He is doing a private job with one CMS INFOSYSTEM LTD. It does the work of depositing the currency notes in ATM. He has no concern with the banking business. Hence, Section 409 of the IPC would not attract. At the most,

Section 408 would be applied as per the allegations. The prosecution did recover nothing from the applicant. He has been falsely implicated in the crime. He was not the sole employee responsible for the activities of depositing the currency notes in ATM. The prosecution has no evidence of misappropriation. He is behind the bar for sufficient period. He is 30 years old having no antecedents to his discredit. The charge sheet has been filed. He has roots at Nandurbar. Hence, there are no chance of his fleeing away. Therefore, he may be granted bail.

4. Learned APP opposing the application would argue that the offence is serious. The punishment for the offence under Section 409 of the IPC is life and upto ten years. Huge amount more than Rs.62,00,000/- has been misappropriated by the applicant. He was responsible employee to receive the currency notes from the Banks and deposit in the ATM. But after receiving the money from the banks, he did not deposit in ATM. The applicant is not co-operating. Hence, the money could not be recovered. The applicant may not be released on bail.

5. Perused the papers. There are allegations of misappropriation of the huge amount more than

Rs.62,00,000/-. It has been alleged as discussed above. However, nothing is recovered from him. There are no antecedents to his discredit. Whether Sections 408 or 409 is applicable, is a question to be determined in this case. He was in service of the private company. Therefore, whether he is a public servant or not is the another question that may fall for consideration. Considering these facts, the completion of the trial and no antecedents to the discredit of the applicant, it would be unjustifiable to keep the applicant behind bar. He deserves bail on certain conditions. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **PANKAJ KISHOR CHAUDHARI** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount, in Crime No.796 of 2022, registered at Nandurbar City Police Station, District Nandurbar, for the offences punishable under Sections. 409, 379, 381, 201 read with Section 34 of the IPC, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) He shall not leave Nandurbar without the intimation to the concerned Police Station till conclusion of the trial.
- (c) He shall attend the trial on each and every effective date.

(S. G. MEHARE, J.)

...

vmk/-