

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.31 OF 2023

Suraj Shyamal Das

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Ritesh M. Thobde with Mr. Changdev S. Shingade for the Applicant.
Mr. S.V. Gavand, APP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 29th MARCH, 2023.

P. C. :-

1. At the outset learned counsel for the Applicant seeks leave to amend the prayer clause as to incorporate the case details. Leave is granted. Amendment to be carried out forthwith.

2. This is an application under Section 439 of the Cr.P.C. filed by the Applicant, who is facing trial in R.C.C. No.1174 of 2022, pending on the file of learned J.M.F.C., Solapur. Said case arises from C.R. No.374 of 2021 registered with Vijapur Naka Police Station, Solapur, for the offences punishable under Sections 406, 419, 420, 465, 467, 468, 471 and 120-B r/w 34 of the IPC and Sections 66(c) and 66(d) of the Information Technology Act, 2000.

3. Heard Mr. Ritesh Thobde, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The case of the prosecution is that the co-accused had induced the first informant -Bhausahab Kashinath Dhumal in paying an amount around Rs.1 crore by falsely representing that they would issue insurance policy for the said amount.

5. The records reveal that the only allegation against the Applicant is that he had allowed accused No.26 to use his bank account in the Punjab National Bank to collect an amount of Rs.1,00,000/- from the victim. Apart from this, there is no other prima facie material to show his involvement in cheating the Complainant and /or fabricating any records.

6. Learned counsel for the Applicant states that the Applicant has already paid to the Complainant an amount of Rs.1,00,000/- by Demand Draft and that the Applicant had filed an application before the Trial Court to compound the offence. The Complainant had also

given no objection to compound the offence. Learned counsel for the Applicant has also placed on record copy of the order dated 10/03/2023, which reveals that the learned Magistrate has permitted the parties to compound the offences punishable under Sections 406, 419 and 420 of the IPC.

7. There is no prima facie material to indicate that the Applicant is involved in committing offences punishable under Sections 465, 467, 468 and 471 of the IPC. The Applicant is in custody since June-2022. There is no possibility of the trial concluding in immediate future. Considering the above facts and circumstances and particularly, the role attributed to the Applicant, in my considered view this is a fit case to exercise discretion under Section 439 of the Cr.P.C. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is arrested in C.R. No.374 of 2021 registered with Vijapur Naka Police Station, Solapur, he shall be released on bail on furnishing PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall appear before the Trial Court on each and every date of hearing;

(iii) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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