

GRM

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

CRIMINAL WRIT PETITION NO. 504 OF 2023

Dattatray Govind Jadhav ... Petitioner

V/s.

The State of Maharashtra ... Respondent

Mr. Vikram V. Tare Patil, Adv. for the Petitioner.

Ms. Anamika Malhotra, APP for the State/Respondent.

CORAM : R. G. AVACHAT, J.

DATED : FEBRUARY 15, 2023

P.C. :

Heard.

2. The challenge in this writ petition is to the order dated 31st January, 2023 refusing to grant the petitioner Default Bail.

3. The petitioner was arrested on 30th November, 2022 in connection with C.R. No. 258/2022 registered with Mahim Police Station, Mumbai for the offences punishable under Sections 406 & 420 of the Indian Penal Code, 1860 (for short “**IPC**”) and Sections 3 & 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short “**MPID**”). He was produced before the Court of Judicial Magistrate First Class on 1st December, 2022. The petitioner filed an application for Default Bail on 30th January, 2023.

4. The record indicates that the investigating officer invoked

Section 409 of IPC to the present crime and intimation thereof was given to the concerned Magistrate only on 31st January, 2023, before which the petitioner had already preferred an application for Default Bail.

5. Considering the quantum of sentence prescribed for the offences punishable under Sections 406 & 420 of IPC and Sections 3 & 4 of MPID, a charge-sheet ought to have been filed within 60 days from the date of remand of the petitioner.

6. Admittedly the charge-sheet has been filed on 1st February, 2023. The period of 60 days for filing of the charge-sheet was over on 29/30th January, 2023. Learned Magistrate misread the judgment of the Hon'ble Apex Court in the case of **State of Madhya Pradesh vs. Rustam and Others** reported in **1995 Supp (3) Supreme Court Cases 221** and excluded the period of Police Custody Remand for computing period of 60 days.

7. Since no charge-sheet was filed within 60 days from the date of remand of the petitioner and he (petitioner) having moved an application for Statutory Bail, the learned Magistrate ought to have granted him bail. Since the same has not been done, the order impugned herein is liable to be set aside.

8. The petition is thus allowed in terms of prayer clause (b).

9. The petitioner be released on his executing PR Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) and

Surety Bond in the like amount.

10. The petitioner is permitted to deposit a sum of Rs. 25,000/- towards cash bail. He shall not tamper with the prosecution evidence, nor shall leave India without permission of the Trial Court.

11. Parties to act on the authenticated copy of this order.

(R. G. AVACHAT, J.)