

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

BAIL APPLICATION NO. 2666 OF 2022

Vishal Shashikant Shirsat ..Applicant

VS.

The State of Maharashtra ..Respondent

Adv. Sonal Parab a/w Tanvi Sawant i/b Rajeev Sawant and Associates for the Applicant.

Mr. S. H. Yadav, APP for the State.

PSI – Tanaji Patil, Vanrai Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 16, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Vishal Shashikant Shirsat, in connection with C.R. No.170 of 2022 dated 10/02/2022, registered with Vanrai Police Station, under sections 408, 436, 201 read with 120-B of the Indian Penal Code, 1860.
- 3.** It is alleged that the applicant, in order to facilitate the setting on fire of the ATM machine, has provided the names of the co-accused for the job. One of the co-accused - Ritik

Rajendra Yadav, had filed Bail Application No. 3095 of 2022 in this Court. By order dated 06/01/2023, the co-accused - Ritik Rajendra Yadav was released on bail. The relevant portion of the order reads thus:

“2. This is an application for bail by the applicant in connection with First Information Report (FIR) No.170/2022 registered on February 10, 2022 with Vanrai Police Station, for the offence punishable under Sections 408, 436, 120-B, 201 read with 34 of the Indian Penal Code, 1860 (hereafter ‘IPC’ for short).

3. The applicant is said to be the main accused. The applicant was working in ‘Rytor Safeguard Company’ which had responsibility of handling the ATM machines on behalf of the State Bank of India. There were two agencies involved i.e. ‘Rytor Safeguard Company’ and ‘Hitachi Company’ which were handling the ATM operations of the State Bank of India. It is the allegation that the applicant misappropriated certain sums of money. To cover up the said misappropriation, the applicant actively associated himself with the other co-accused thereby setting fire to the ATM machine causing loss to the State Bank of India to the tune of Rs.77,18,800/-. ‘Hitachi Company’ has covered the loss of Rs.77,18,800/- suffered by the State Bank of India. The recovery of Rs.5,30,000/- was made from other accused. There is no recovery from the applicant. There are no criminal antecedents reported against the applicant.

4. The charge-sheet has been filed and the investigation is complete. The applicant is a student of F.Y.B.Sc. (IT) and is 19 years of age. The applicant is in custody for more than 11 months. The offence under Section 436 of the IPC is punishable with an imprisonment which may extend to 10 years but not with life or death.

5. Considering the age of the applicant and the fact that he is in custody for more than 11 months, now that the charge-sheet has been filed and the

investigation is complete, the applicant can be released on bail. The allegations against the applicant are no doubt serious but the trial is likely take a long time. It would be unjust to prolong the custody of the applicant by way of a punishment.”

4. It is alleged that the applicant had demanded a sum of Rs.20 lakhs for providing professional services, thereby facilitating the commission of the crime. A sum of Rs.13 lakhs was paid to the applicant, according to the prosecution. The material relied upon to demonstrate that a sum of Rs.13 lakhs was paid to the applicant is the statement of the co-accused. Learned counsel for the applicant submits that the statement of the co-accused cannot be relied upon to implicate the applicant.

5. Apart from the statement of co-accused there is nothing to show the applicant's complicity. Without prejudice to the rights and contentions, an affidavit affirmed on 16/02/2023 has been filed by the applicant's wife – Mrs. Reema Vishal Shirsat. The affidavit is taken on record. It is stated in the affidavit that the applicant is willing to deposit a sum of Rs.5 lakhs with the trial Court, within a period of 6 months from today i.e. on or before 16/08/2023. It is further stated that a sum of Rs.1 lakh out of Rs.5 lakhs will be

deposited with the trial Court, within 4 weeks from today i.e. on or before 16/03/2023. This only to show his bonafides. The affidavit is accepted as an undertaking to this Court.

6. There is no recovery made from the present applicant. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant was arrested on 01/06/2022 and is in custody almost for 8 months. No purpose will be served by keeping the applicant in custody any further, as the possibility of trial commencing any time soon appears remote. The applicant could be released on bail. Hence, the following order.

ORDER

(a) Applicant- Vishal Shashikant Shirsat, in connection with C.R. No.170 of 2022, registered with Vanrai Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(b) The applicant is permitted to furnish temporary cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety;

(c) The applicant shall not directly or indirectly

make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence;

(d) The applicant shall report to the concerned police station once a month i.e. on first Monday between 11.00 a.m. and 1.00 p.m;

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change;

(f) The applicant shall strictly abide by the affidavit-cum-undertaking dated 16/02/2023, filed in this Court.

7. The application stands disposed of.

(M. S. KARNIK, J.)