



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.67 OF 2024**

Nasir Riyaz Khan
versus
State of Maharashtra

... Applicant
... Respondent

Ms. Sheeba Khan with Mr. Nizamuddin B. Khan, for Applicant.
Mr. S.R.Agarkar, APP for State.
PSI Swapnil C. Belose, Kashmirira Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 4 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.343 of 2023 registered with Kashmirira Police Station for the offences punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860.
3. On 9 May 2023, pursuant to a secret information, PSI Nalawade conducted a raid at Flat No.103, Gaurav Excellency Building No.7, Mira Road (E). The accused No.1 Amarjahan Shaikh was found in possession of 10 sim cards. A number of covers of sim cards having different mobile numbers were found in possession of accused No.1. It transpired that the accused No.1 had obtained the said sim cards from co-accused Manjoor, and forwarded the said sim cards to a person named Shia based in Dubai.

4. Investigation revealed that the applicant was dealing in the business of sim cards and had used the credentials of the customers without their knowledge.

The applicant came to be arrested on 13 May 2023.

5. Learned Counsel for the Applicant submitted that the co-accused Manjoor, from whom the accused No.1 has allegedly obtained the sim cards, has been released on bail by the Court of Session. Likewise, two of the co-accused Ashfaq Sayed and Samsher Raja, have also been released on bail. There is no material to rope in the applicant for the alleged offences.

6. Learned APP resisted the application for bail. Attention of the Court was invited to the statements of the witnesses that the applicant had obtained the sim cards in their names by using their credentials without their knowledge. Learned APP submitted that it amounts data theft and poses threat to the security of the nation and, therefore, it is a serious offence.

7. I have perused the allegations in the FIR. It appears that the applicant was not named in the FIR. In fact, accused No.1 claimed to have obtained the said sim cards from co-accused Manjoor, who has been released on bail. Indeed, there are statements of two witnesses who had stated that the applicant had obtained sim cards by using their credentials without their knowledge. However, the question as to whether the applicant can be connected with the sim cards allegedly recovered from accused No.1, requires adjudication at the trial.

8. In the circumstances, as the investigation is complete and the chargesheet has been lodged and the co-accused from whom the accused No.1 had allegedly obtained sim cards has already been released on bail, I am inclined to exercise the discretion in favour of the applicant.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Nasir Riyaz Khan be released on bail in C.R.No.343 of 2023 registered with Kashmirira Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at Kashmirira Police Station on first Monday of every month between 11 am to 1 pm for a period of two years or till the conclusion of the trial whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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.

(v) 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.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)