



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

970 BAIL APPLICATION NO. 1384 OF 2025

DIPAK RAJENDRA SONI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Barhate Patil Avinash N., Advocate for Applicant
Ms. P. V. Diggikar, APP for Respondents/state

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 22.08.2025

PER COURT :-

1. This is an application for granting regular bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No.43 of 2025 registered at Rahata Police Station, Dist. Ahilyanagar, for the offences punishable under Sections 318(4), 3(5), of the Bhartiya Nyaya Sanhita, 2023. The applicant's application bearing Bail Application No.158 of 2025 with similar prayer came to be rejected by the learned Additional Sessions Judge, Rahata vide order dated 30.06.2025.

2. The informant averred in the report that he is 63 years old retired person. On 16.01.2025 at about 05:45 p.m., he went to withdraw money from the State Bank ATM located next to the State Bank in Rahata, Opposite Dr. Maid Hospital. He saw two persons standing near the ATM. He then attempted to withdraw cash by inserting his ATM

card. These two persons informed him that they were there to clean the ATM and advised him to withdraw money later. However, the informant stated that he was in a hurry and insisted on withdrawing the amount. While he was entering his PIN, the two persons observed him. Despite his attempts, he was unable to withdraw the money. The two individuals then told him that he was not operating the ATM correctly and asked him to hand over his debit card. Trusting them, the informant handed over his card. One of them inserted another card into the ATM machine and instructed the informant to enter his PIN again. Even after multiple attempts, the amount could not be withdrawn. The individuals then told the informant to try withdrawing money from another ATM and handed a different ATM card while retaining his original card. On the next day, i.e., 17.01.2025 at about 02:30 p.m., the informant went to the Union Bank ATM and tried to withdraw money. Upon inserting the ATM card, he realized that the card was not his, as it was in the name of T. Chandrashekhar. He immediately went to the State Bank branch at Shirdi to report the matter. He was informed that total amount of Rs.22,423.60/- had been withdrawn from his account on 16.01.2025. Therefore, he lodged the report.

3. The learned counsel for the applicant submitted that the applicant has no criminal antecedents and has been falsely implicated in the present crime. He further submitted that as on today, the CCTV footage of

the ATM has not been placed on record to establish that the applicant was present in the ATM booth at the relevant time. Additionally, no identification parade has been conducted to identify the accused. The applicant's wife is admitted to the hospital and she had begotten yesterday. The applicant is ready to furnish a local solvent surety to secure his presence. He, therefore, prayed that the applicant be granted bail with appropriate conditions.

4. The learned APP for the State pointed out the contents of the report as well as the statements of witnesses. He referred to the complaints lodged by NandKumar Laxman Burhade and Vilas Asaram Jagtap. He further pointed out the transaction details related to the applicant and other persons concerning accounts in the Bank of Maharashtra and the State Bank of India. He also referred to the arrest and seizure panchnama, in which 69 ATM cards, Fevikwik and a mobile handset were seized from the applicant. He submitted that the applicant is involved in a serious offence and that securing his presence may be difficult, as he is the resident of Madhya Pradesh. He submitted that the applicant's wife is a nurse and her relatives can take care of her. Accordingly, he prayed for rejection of the bail application.

5. On perusal of the charge-sheet, it is crystal clear that the applicant is involved in a serious offence of cheating and recovery of 69

ATM cards from his possession, are prima facie material against him. If the applicant is released on bail, there is a strong possibility that he may commit a similar offence and abscond. Although the learned counsel for the applicant submitted that the applicant is willing to deposit the entire amount withdrawn; however, as per the law laid down by the Hon'ble Supreme Court in the case of ***Gajanan Dattatray Gore Vs. The state of Maharashtra, 2025 SCC online SC 1571***, such a submission cannot be accepted as a ground for granting bail.

6. Considering the nature of the crime and the *modus operandi* adopted by the applicant, no case is made out for grant bail. The application, therefore, deserves to be rejected and is accordingly rejected.

7. The learned Trial Court is directed to decide the case as early as possible, if there is no other matter expedited either by the Hon'ble Supreme Court or this Court. If any such matter is pending, then after the disposal of that matter, the Sessions Case of this crime shall be disposed of as expeditiously as possible.

[SANJAY A. DESHMUKH, J.]

HRJadhav