

MHCC050011392023



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI
CRIMINAL BAIL APPLICATION NO. 185 OF 2023
IN
(C.R. NO. 137 OF 2023 of Dahisar Police Station)**

Mr. Aakash Rupkumar Jadhvani

Age : 21 years, Indian Inhabitant,
Occupation : Business,
Having his current address at
16/92, Liberty, New Nithya Mangal
CHS Ltd., Garodia Nagar, Near Sati
Kripa Shopping Center,
Ghatkopar East, Mumbai,
Maharashtra

...Applicant/Accused

Versus

**The State of Maharashtra
At the instance of Dahisar Police Station
vide C.R. No.137 of 2023.**

...Respondents

APPEARANCE

Ld. Advocate Premkumar Pandey for applicant.
Ld. APP. Pachpohar for Respondent/State.

**CORAM : H.H. ADDITIONAL SESSIONS JUDGE
SHRI D. G. DHOBLE (C.R. No.7)**

DATE : 14th March, 2023.

ORDER

The present application is filed by the applicant/accused for regular bail under Section 439 of the Code of Criminal Procedure for

the offence punishable under Sections 419, 420 of the Indian Penal Code and 66(c) & 66(d) of Information and Technology Act.

2 The brief facts of the prosecution case are that the informant was supposed to celebrate her birthday on 31.12.2022 together with her husband, family and friends. The informant opened 'Vistara Stays' website online. Thereafter, she received message from Karan on her mobile for requirement of bungalow and send catalog. Accordingly, informant selected a bungalow and made payment of Rs.1,20,000/- from her account to the Yes Bank account of applicant on 28.11.2022. Subsequently, she was received message stating that the applicant is unable to serve bungalow and requested to give account to informant for refund of amount. However, no money was refunded despite making effort. Thereafter she realized that she was cheated by the applicant. Hence, lodged report. Accordingly, offence came to be registered.

3. Ld. Counsel for the applicant would submits that the applicant is innocent and has been falsely implicated. There is no specific role attributed to the present applicant. The amount is not transferred into the account of applicant. None of the previous FIR applicant was convicted. The booking was cancelled due to untoward incident. There is no inducement and dishonored intention on the part of the applicant. He submits the applicant has voluntarily filed to deposit disputed amount of Rs.1,20,000/-. Accordingly, in view of order of this court the father of the applicant on dated 11.03.2023 deposited the amount under protest in order to show the bonafiedness. Applicant is arrested on 31.01.2023. Since then applicant is in jail. Hence, he prayed to allow the application.

4. The respondent strongly opposed application by filing reply. The Ld. APP for the State has states that near about 21 cases have been registered of the like nature against the applicant and his brother in the various police station of the Mumbai. The applicant in order to cheat the people at large prepared false 'Vistara' webside similar to 'Stay Vistara' website. Prima facie there is involvement of the applicant. The another accused namely Avinash Jadhvani is to be arrested. The applicant is habitual offender. During course of investigation huge amount is found into the account of account. The said amount is yet to be seized. Investigation is in progress. Offence is serious. Hence, he prayed to reject the bail application.

5. Heard advocate for applicant and Ld. APP for State. Perused the grounds in application and reply and also material available on record.

6. In this case, the applicant is arrested on 31.01.2023. Since then the applicant is in jail. The disputed amount of Rs.1,20,000/- is voluntarily deposited by the applicant under pretext before the investigating officer. The alleged offence is triable by the Metropolitan Magistrate. It is the case of the applicant that alleged amount is not deposited into the account of the applicant and same could not refund due to the untoward incident occurred in Villa. No doubt, there are 21 cases registered against the applicant in the various police station of similar nature. The applicant is permanent resident of the Mumbai. Considering the role attributed to the present applicant the and the fact that he is in jail since long. So far as the involvement of the applicant is concerned that can be look into during course of the trial. Pre-trial

conviction is not permissible. Considering the long incarceration in jail and the fact that the applicant has deposited the disputed amount under protest. No purpose will be served keeping the applicant behind the bar. Having regard to the nature of offence, applicant is entitled for bail. Hence, I pass the following order.

ORDER

1. Criminal Bail Application No. 185/23 is allowed.
2. The applicant Aakash Rupkumar Jadhawani shall be released on bail on executing P. R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one solvent surety of like amount in C.R. No. 136 of 2023 registered on 30/01/2023 with Dahisar Police Station for the offence punishable u/s. 419, 420 of Indian Penal Court and Sec. 66 (C), 66 (D) of Information Technology Act. On the following condition:-
 - i) The applicants shall not tamper the prosecution witnesses in any manner.
 - ii) Applicant shall attend investigation officer as and when called for for the purpose of the investigation and attend the court regularly during course of trial.
 - iii) Applicant shall not commit offence of like nature.
3. Bail before lower Court.
4. Criminal Bail Application No. 185/23 is accordingly disposed off.

(D. G. DHOBLE)

Additional Sessions Judge,
Borivali Div., Dindoshi, Mumbai.

Dated : 14/03/2023

Dictated on : 14/03/2023
Checked & Signed by HHJ on : 17/03/2023

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

Date : 17/03/2023

Time : 05.07 P. M.

UPLOAD DATE AND TIME

Pradeep Thorat

NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	HHJ Shri. Datta G. Dhoble (C.R.No.7)
Date of Pronouncement of JUDGMENT/ORDER	14/03/2023
JUDGMENT/ORDER signed by P.O. on	17/03/2023
JUDGMENT/ORDER uploaded on	17/03/2023