

**30.04.2015**

Shri Ranjeet Khanwilkar Advocate for applicant.

Shri P.S. Raghuvanshi Public Prosecutor for Respondent/  
State.

Case Diary is perused.

Learned counsel for the rival parties are heard.

The applicant has filed this first application u/S 439, Cr.P.C. for grant of bail. The applicant has been arrested by Police Station Huzrat Kotwali, District Gwalior in connection with Crime No.37/2015 registered in relation to the offences punishable u/Ss. 420, 467, 468, 471, 34 and 120-B of IPC.

Learned Public Prosecutor for the State opposed the application and prayed for its rejection by contending that on the basis of the allegations and the material available on record, no case for grant of bail is made out.

The applicant is in custody since 21. 2. 2104. The allegation of cheating and forgery has been alleged against the present applicant along with other coaccused including Kishori Lal and other co-accused as they have defrauded the complainant of certain sum of money deposited in his post office by withdrawing the same unlawfully.

Similarly placed co-accused Kishorilal has since been granted benefit of bail by order dated 13.4. 2015 in M.Cr.C. No. 2372/15 where following observations were made:-

*Learned counsel for the appellant submits that the applicant is a reputed citizen of the locality, who has no criminal past alleged against him. As per allegation, one Rajni has expired and thereafter, her husband Munna with help of some accused persons had withdrawn a huge amount from her current account in the post office. There is no evidence against the applicant except a memo under Section 27 of Evidence Act given by the co-accused*

*Rajkumar. However, in that memo, there is no specific allegation about the overt-act of the applicant. In absence of any consequential seizure etc. that memo is not admissible. A sum of Rs. 10,000/- was recovered from the applicant, which was of his own. Chain of circumstantial evidence is broken. The applicant is falsely implicated in the matter. No alleged offence is made out against the applicant. The applicant is in custody since 21.2.2014. without any substantial reason. Under such circumstances, the applicant prays for bail.*

*Considering the submissions made by learned counsel for the parties and looking to the facts and circumstances of the case including the gravity of offence, without expressing any view on the merits of the case, I am of the view that application u/S. 439 of Cr.P.C filed by the applicant viz. Kishorilal Koli may be accepted. Consequently, it is hereby allowed.*

Accordingly, there is no ground to take a different view than the one taken by coordinate Bench of this court. In case of co-accused Kishori Lal.

Accordingly, the petitioner who has no criminal antecedents is entitled to bail. Early conclusion of the trial is a bleak possibility and prolonged pre-trial detention is anathema to the concept of liberty and that there are no criminal antecedents of the applicant and the material placed on record does not disclose possibility of the applicant fleeing from justice.

In view of the above, this Court is inclined to extend the benefit of bail to the applicant.

Accordingly, without expressing any opinion on merits of the case, this application is allowed and it is directed that the applicant be released on bail on furnishing a personal bond in the sum of Rs.2,00,000/- (Rs. Two Lac only) with two solvent

sureties of like amount to the satisfaction of the concerned trial Court.

This order will remain operative subject to compliance of the following conditions by the applicant :-

1. The applicant will comply with all the terms and conditions of the bond executed by him;
2. The applicant will cooperate in the investigation/trial, as the case may be;
3. The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to the Police Officer, as the case may be;
4. The applicant shall not commit an offence similar to the offence of which he is accused;
5. The applicant will not seek unnecessary adjournments during the trial; and
6. The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be.

A copy of this order be sent to the Court concerned for compliance.

C.c. as per rules.

**(Sheel Nagu)**  
**Judge**

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