

# Pradeep Kumar Chouhan vs The State Of Madhya Pradesh on 22 October, 2021

**Author: Vivek Rusia**

**Bench: Vivek Rusia**

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HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE  
(SINGLE BENCH: HON'BLE Mr. JUSTICE VIVEK RUSIA)  
M.Cr.C. No. 45382/2021

Pradeep Kumar Chouhan S/o Ram Kumar, aged about 29 years, Occupation-  
Business, R/o 64/65 Krishna Nagar Meerut Road, Gaziabad, U.P.

Applicant.

V/s

State of Madhya Pradesh through P.S. Cyber Cell, District Cyber Cell, Indore

Non-applicant.

Date: 22.10.2021:

Shri Nitin Singh Bhati, learned counsel for the applicant.

Ms. Mamta Shandilya, learned Panel Lawyer for the  
respondent/State.

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This is the First application filed under section 439 Cr.P.C seeking bail in connection with Crime No.28/2021 registered at Police Station- Cyber Cell, Indore District - Indore for the offence punishable under section 420, 467, 468, 471, 201/34 of I.P.C. and Section 66-D, 43 of I.T. Act.

As per prosecution story, Shri Priyesh Kothari submitted a written complaint No.36/2021 dated 21.01.2021 before the State Cyber Cell, Zonal Office, Indore on 04.02.2021 disclosing that prior to the lockdown, he received a call from female employee of City Bank for the purpose of loan. Since he was keen to get Loan hence he shown his interest, she transferred the call to the Loan Advisor of the city bank. After some conversations, the said girl namely Kanika obtained Adhar Card, PAN Card, Marksheet, Photographs, address and three years income tax return from him through mail or WhatsApp. Thereafter, Manish Gupta gave a call and told to him, for obtaining polices in the name of family members, which is mandatory for processing the loan. Accordingly, the complainant got the policy No.5023211443 in the name of his wife on 16.03.2020 by depositing Rs.71,500/-. Likewise, second policy of Rs.90,000/- was generated on

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27.04.2020. He further made a payment of Rs.27986/- on 12.05.2020 and Rs. 89,000/- on 18.06.2020 for issuing policies .

Despite taking aforesaid policies, no steps were taken for sanctioning the loan to him.

On 24.08.2020, he further received phone call from Dr. Shridhar Reddy, SBI, Belapur, C.B.D. New Mumbai. After explaining certain procedure, he directed him to deposit Rs.32,500/- from the SBI Credit Card by way of NEFT. Thereafter, on 08.09.2020, he was again directed to transfer Rs.5,00,000/- by way of RTGS. Co-accused Dheeru Bai Bajaj informed him about procedure of the pre-sanction of loan and directed him deposit processing fee @ 1 % of the loan amount. According to him, after depositing of Rs. 5,00,000/- Rs.5,00,000/- in installment, the loan would be disbursed. On 20.10.2020, Jitendra Kantilal Mehta has informed him that he will have to deposit TDS in advance over the Rs. 12,50,000,00/- and service tax @ 5 %. According to the complainant by way of lucrative offer of sanctioning the loan, he has been deceived and accused persons have got deposited Rs.1,72,82,500/- from him but no loan was sanctioned to him. He has produced all the documents, bank statement pertaining to the transfer of the aforesaid amount to the accused persons to the police along with the written the complaint.

Learned counsel for the applicant submits that this applicant is owner of Krishna Jan Seva Kendra. He has been authorized by the various financial institutions/ Banks to provide the services to the customers through credit cards and other payment mode. The applicant by way of license is authorized to receive amount in his account and handed over to the customer by way of cash amount from PTM machine. In the transaction of his business one Anuj Kumar S/o Lokesh Kumar resident of Saidpur, Gaziabad, U.P.

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requested for transfer of amount in his account and payment by way of cash, he accepted the aforesaid and received amount of Rs.32500/- in SBI credit card. Thereafter, he gave the cash amount to him. Thereafter, he approached on several occasions for such type of transaction and agreed to give commission to him. Thereafter, he arranged credit card of Ankit Chouhan and Chanchal Chouhan for similar type of transaction and in total he has made transaction of Rs. 15,50,000/- with Anuj. All the transactions are valid transaction, have come in the records of his accounts book. He is income tax payee. He was not aware whether Anuj and others were indulged into illegal activities. He was not in conspiracy with them. There is no charge under section 120-B of I.P.C. against him. This applicant has not been named in the FIR. Whatever he has done, that was the part of his business transaction without there being any motive or criminality. At the most offence under section 420 of I.P.C. is made out, which is triable by the Judicial Magistrate First Class. No offence under Section 467 and 468 is made out in this case. The police has taken his statement under Section 27 of Indian Evidence Act in which he also fairly disclosed the transaction with Anuj Kumar. No further interrogation is required. All the documents, cards, machine have been seized by the police. He is innocent person and

has falsely been implicated in this case.

Learned Government Advocate for the respondent/State opposes the bail application by submitting that this applicant facilitated other accused for cheating by way of online fraud. With a great difficulty, police could arrest him and if he is released, he will not come back and attend the trial. The bail of co-accused has been rejected by this Court. The applicant and other co-accused have defrauded the complainant by taking amount of Rs.1,27,82,500/- in the name of loan/ subsidy. Nothing have been

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recovered from the applicant or other accused persons. Other accused have not been arrested so far, therefore, at this stage, applicant is not entitled for grant of bail.

I have heard learned counsel for the parties and perused the case diary.

The applicant is having a license to run the service center. He was authorized to receive the money and return to the customer by way of cash for which a limited amount of percentage is liable to be charged. According to his statement recorded under Section 27 of Indian Evidence Act, he has charged commission @ 14%. It means he was aware that such transaction is being made in order to cheat by way of online fraud. Being a licensee, he was supposed to follow the guidelines issued by RBI and should not have involved in the activities of unauthorized transaction. Anuj Kumar and Chanchal Chouhan, Nirbhay Kumar have not been arrested so far and investigation is pending against them. Therefore, at this stage, applicant is not entitled for grant of bail, accordingly, M.Cr.C. is hereby dismissed, however, applicant is having liberty to repeat the application after some progress in the trial like after framing of charges or examination of complainant.

Certified copy as per Rules.

( VIVEK RUSIA ) JUDGE praveen