

GRM

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1298 OF 2022

PAZHEDATH SUBRAMANIAM NARAYANAN ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Ms. Pankti Shah a/w Ms. Nidhi Nair i/by Mr. Devesh Tripathi,
Adv. for the applicant.

Ms. A. A. Takalkar, APP for the Respondent-State.

Mr. N. K. Ghadge, PSI (IO) attached to Mahim Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 14, 2022.

P.C. :

1. Heard learned Counsel for the applicant.
2. This is an application for bail in respect of C.R. No. 492 of 2021 registered with Mahim Police Station, Mumbai for the offence punishable under Sections 420, 406, 409, 465 & 468 of the Indian Penal Code, 1860. The FIR was registered on 02/10/2021 by the widow of late Mr. Lawrence D'Souza.
3. Briefly stated, it is the case that the applicant was a sub-broker dealing in share trading. Around 20,000 shares, which belonged to late Mr. Lawrence D'Souza, were transferred by the applicant in his name between the period

from April to December, 2002.

4. In the FIR, it is alleged that the applicant had committed breach of the Memorandum of Understanding (For short “**MOU**”) entered into and executed by him in the year 2014, by which he had promised to pay the consideration as stated in the MOU.

5. Learned Counsel for the applicant submitted that the MOU was obtained by coercion. I am not entering into that controversy. Suffice it to observe that in respect of the offence alleged, which happened sometime in the year 2002, during the life time of late Mr. Lawrence D’Souza there was no complaint. The FIR is registered after 19 years of the alleged commission of the offence of transfer of shares belonging to late Mr. Lawrence D’Souza in the name of applicant. The applicant is 65 years of age and suffering from age related ailments. The charge-sheet has already been filed. Investigation is complete.

6. Learned APP for the State has informed that even the charges have been framed and therefore, he prays for expeditious trial instead of releasing the applicant on bail.

7. There is an unexplained delay in registering the FIR.

Further taking into consideration the MOU was executed by the parties, this may be a matter which gives rise to a civil liability. There are no criminal antecedents reported. The applicant has roots in Mumbai and was arrested on 27/01/2022 after he surrendered on getting information that the FIR is registered against him.

8. In this view of the matter, it is not the case where there is a possibility of the applicant of fleeing and not attending the trial. Though charges have been framed by the Trial Court, there does not appear a possibility of trial commencing in the near future. The applicant is in custody for more than 10 months

9. Taking an overall view of the matter, the applicant can be released on bail. In the result, the following order is passed :-

ORDER

- (a) Criminal Bail Application No. 1298 of 2022 is allowed.
- (b) The applicant-PAZHEDATH SUBRAMANIAM NARAYANAN shall be released on bail in connection with C.R. No. 492 of 2021 registered with Mahim Police Station, Mumbai on his furnishing P.R. Bond of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount.

- (c) In addition to the aforesaid conditions, the applicant shall be released on furnishing cash bail of Rs. 25,000/- (Rupees Twenty-five Thousand Only) in lieu of sureties for a period of six (6) weeks from today.
- (d) 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. The applicant shall not tamper with evidence.
- (e) The applicant shall report to the Investigating Officer once in a month on first Monday of every month between 10.00 a.m. & 1.00 p.m. and thereafter as and when called.
- (f) 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.
- (g) Application is disposed of accordingly.

(M. S. KARNIK, J.)