

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.531 OF 2024**

Ketan Babulal Patel ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Subodh Desai a/w. Mr. Hrishikesh Chawan, Christine Rewrie,  
Ms. Janvi Dutt and Ms. Unnati Bane i/b. L.R. & Associates, for the  
Applicant.

Ms. Supriya Kak, APP, for the Respondent/State.

Mr. Navin Arora, for Respondent No. 2.

**CORAM : N. J. JAMADAR, J.**

**DATE : MAY 02, 2024**

**P.C.:**

1. Heard the learned counsel for the parties.
2. The applicant, who is arraigned in C.R. No. 383 of 2021 registered with Shahapur police station and investigated by Economic Offences Wing, Thane Rural for the offences punishable under section 420, 467, 468, 471 read with 34 of Indian Penal Code, 1860; sections 3 and 13(1) of the Maharashtra Ownership Flats (Regulation of Promotion of Construction, Sale, Management and Transfer) Act, 1963; and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, seeks to be enlarged on bail.

3. The applicant was arrested and produced before jurisdictional Court on 26<sup>th</sup> July, 2023. 90 days statutory period prescribed for completion of investigation expired on 23<sup>rd</sup> October, 2023. Claiming that the chargesheet was not lodged, the applicant preferred an application for default bail on the 94<sup>th</sup> day i.e. 27<sup>th</sup> October, 2023.

4. By an order dated 1<sup>st</sup> November, 2023, the learned Additional Sessions Judge, Kalyan rejected the application observing, inter alia, that the charge sheet was in fact filed on 20<sup>th</sup> October, 2023 before the expiry of the prescribed period of 90 days. Hence, this application.

5. Mr. Desai, the learned counsel for the applicant submitted that the said finding of the learned Additional Sessions Judge is against the weight of the material on record. It was submitted that there is no controversy on facts as to the date of remand, date on which 90 days period would expire, and the date on which the applicant availed the right of default bail by filing an application. The controversy surrounds around the pivotal fact as to whether chargesheet was in fact filed on 20<sup>th</sup> October, 2023 as claimed by the prosecution, or for that matter, before the filing of the application for default bail by the the applicant. Mr. Desai invited attention of

the Court to the endorsement made by the Superintendent, District and Session Court, Kalyan to bolster up the submission that the Court official had made a categorical note that the charge sheet was not filed in the matter up to 4.48 pm on 27<sup>th</sup> October, 2023.

6. In opposition to this, Ms. Kak, learned APP, submitted that the Court had correctly noted that the charge sheet was, in fact, filed on 20<sup>th</sup> October, 2023 and thus no indefeasible right accrued to the applicant. Attention of the Court was invited to the affidavit filed by Dr. Basavaraj Teli, DIG, EOW, CID, Maharashtra State wherein the deponent has, inter alia, affirmed that charge sheet was, in fact, presented before the Special Court on 20<sup>th</sup> October, 2023.

7. The fate of the application hinges upon the correct construction of the endorsement made by the Superintendent, Additional District and Session Court, Kalyan on the application for default bail (page 47). It read as under:-

R/submitted  
Sir, on verification of the institution register, the charge sheet in this matter is not filed till today upto 4.58 pm. However, the charge is presented on 20<sup>th</sup> October, 2023 and it is under scrutiny.  
Superintendent  
Additional District and Session Court,  
Kalyan

8. Mr. Desai laid emphasis on the opening part of the

endorsement that ‘on verification of the institution register, charge sheet was not filed upto 4.58 pm on 20<sup>th</sup> October, 2023’. The latter part of the endorsement, which states that “the charge is presented on 20<sup>th</sup> October, 2023 and it is under scrutiny,” according to Mr. Desai, does not make any sense. Therefore, it can be safely inferred that the chargesheet was not filed till the application for default bail came to be preferred by the applicant. Attention of the Court was invited to Roznama dated 26<sup>th</sup> December, 2023 wherein it is mentioned that the charge sheet was filed.

9. I am afraid to accede to the submissions of Mr. Desai. The latter part of the endorsement may be inarticulate. However, the Superintendent has clearly recorded that the chargesheet was presented on 20<sup>th</sup> October, 2023 and it was under scrutiny. Copy of the inward register tendered by the learned APP for the perusal of the Court indicates that the charge sheet was filed in C.R. No. 383 of 2021 on 20<sup>th</sup> October, 2023 vide entry No. 1767. The said entry was made in seriatum.

10. The fact that charge sheet was under scrutiny does not imply that the charge sheet was not filed. It is trite once the investigation is complete and charge sheet is filed within the statutory period, an

accused cannot take recourse to the provisions contained in section 167(2) of Code of Criminal Procedure, 1973 for release on bail.

11. In the aforesaid view of the matter, the learned Additional Session Judge committed no error in rejecting the application for default bail.

Hence, the following order.

**ORDER**

The application stands rejected.

**(N. J. JAMADAR, J.)**