

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

**BAIL APPLICATION NO. 3387 OF 2023
WITH
INTERIM APPLICATION NO. 1350 OF 2024**

Yogesh Chhajuram Jalandra. ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Sushrut Jadhwar i/b. Ms. Yogita Gade, Advocate for the Applicant.

Ms. Ranjana D. Humane, APP, for the Respondent/State.

Mr. Ganesh Sovani, Advocate for Intervenor applicant in IA 1350 of 2024.

API Vidhya Patil, EOW, Thane, Khadakpada Police Station.

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**CORAM : N. J. JAMADAR, J.
DATE : MAY 6, 2024**

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The applicant who is arraigned in C.R. No. 164 of 2023 registered with Khadakpada Police Station for the offences punishable under sections 120B, 406, 409, 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 seeks to be enlarged on bail.

3. The indictment against the applicant and 29 co-accused is that the applicant alongwith co-accused had induced the Cosmos Cooperative Bank to advance home loans to borrowers, who have also been implicated as accused on the basis of the forged and fabricated documents. The applicant was allegedly operating as an agent and played a major role in furnishing forged and fabricated documents.

4. The learned Counsel for the applicant submitted that the co-accused Ismail Shaikh and accused No. 2 Dattatray Ramdas Avhad and Accused No. 3 Sachin Patil who were working as an agent and attributed role of preparing false documents have been released on bail. Ismail Shaikh was released on bail by this Court on 17th January, 2024.

5. Learned APP resisted the prayer for the bail. It was submitted that the applicant was a prime character. A sum of Rs. 19 Lakhs approximately was credited to the account of the applicant. The applicant has antecedents.

6. Learned Counsel for the first informant Bank also resisted the prayer for bail. It was submitted that in a systematic manner the bank was defrauded by submitting false and forged documents. Therefore, having regard to the quantum of the defrauded amount, the applicant does not deserve to be

enlarged on bail.

7. While releasing Ismail Sheraj Shaikh, Accused No. 2 on bail this Court had inter alia observed thus :

“4. The learned Counsel for the applicant submitted that co-accused Datta Avhad, who works as an agent and a friend of the applicant has already been released on bail by this Court by an order dated 4th October, 2023. The allegations against the applicant are vague and omnibus. The applicant has been roped in only on the count that he works as an agent.

5. The learned APP countered the submissions on behalf of the applicant. Attention of the Court was invited to the submissions of borrower namely Gitanjali Morvekar. She stated that initially the work of securing home loan was entrusted to co-accused Raj and Yogesh. They had called her at Cosmos Bank, Kalyan Branch. In the said branch the applicant and co-accused Yogesh were present alongwith the home loan file. The applicant and the co-accused made her to sign the loan documents without allowing her to peruse the contents thereof. Later on , it transpired that Yogesh and applicant were arrested.

6. Prima facie, the accusation against the applicant appears to be omnibus. Even the statement of Gitanjali Morvekar does not prima facie bear the weight of the accusation against the applicant.

7. Co-accused Datta Avhad, another agent, who has been released on bail also seem to have been attributed with almost identical role. The applicant is in custody since 20th April, 2023. Investigation is complete. Charge-sheet has been lodged. Further detention of the applicant does not seem warranted.

8. The apprehension of the part of the prosecution, based on the antecedents of the applicant on account of registration of two more crimes against the applicant in Khadakpada and

Borivali Police Station can be taken care of by imposing stringent conditions.

8. Prima facie, it does appear that the role of the applicant and accused Ismail Shaikh is the same. So far as the submission on behalf of the prosecution that the sum of Rs. 19 Lakhs was credited in the account of applicant, learned Counsel for the applicant submitted that out of the said amount substantial portion was in turn transferred to the account of co-accused. The applicant cannot be said to be sole beneficiary of the said amount. Nonetheless, to show his bonafide, the applicant is willing to deposit the sum of Rs. 7 Lakhs if reasonable time is given to him.

9. The investigation seems to be completed for all intent and purpose. The complicity of the applicant is sought to be established on the basis of the statements of the borrowers who are co-accused. These statements may not constitute a legal evidence. The applicant has been in custody since 18th April, 2023. Therefore, I am inclined to allow this application.

10. Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Yogesh Chhajuram Jalandra be released

on bail in C.R. No. 164 of 2023 registered with Khadkapada police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at Khadkapada Police Station on the first Monday of every alternate month between 11 am to 1 pm till conclusion of the trial.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] 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.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

8] Application is disposed of.

9] In view of disposal of the application, Interim Application also stands disposed of.

(N. J. JAMADAR, J.)