

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3107 OF 2024**

Dharmendra @ Dharmesh Jayprakash Singh ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Shirish Gupte, Senior Advocate a/w. Mr. Nitesh Kumar, i/b. Wesley Menezes & Waquar Pathan for applicant.

Ms. Rutuja Anil Ambekar, APP for respondent-State.

CORAM : MANISH PITALE, J.

DATE : 23rd OCTOBER, 2024

P.C. :

. Heard learned senior counsel appearing for the applicant and the learned APP for the respondent-State.

2. The applicant is seeking bail in connection with FIR No.68 of 2008, registered with Economic Offences Wing (EOW), Unit VII, Mumbai (FIR No.226 of 2008, registered with Gamdevi Police Station), for offences under Sections 419, 420, 465, 467, 468 and 471 read with Section 120-B of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the grievance of the informant that certain shares were illegally got transferred in the name of the co-accused person, who ultimately was beneficiary of the same. The allegation is that the applicant conspired with the co-accused persons to commit the said offence.

4. The applicant had applied for bail before the Sessions Court, in the light of the fact that he was arrested on 15.04.2024. The Sessions Court dismissed the application and the applicant has approached this Court.

5. The learned senior counsel appearing for the applicant submitted that the applicant was arrested in the context of four other criminal cases, in which he is arraigned as an accused, on 30.04.2019, in the light of the non-bailable warrants issued against him and he remained in custody, till he was granted bail on 10.06.2019. In the said cases, EOW, which is the prosecuting agency in the aforesaid four cases also, did not take appropriate steps in the context of the present case. It is submitted that the applicant having been released on bail on 10.06.2019 in the other four cases, and in the present case, there being hardly any possibility of the trial being completed within reasonable period of time, this Court may consider allowing the application by imposing stringent conditions, as no purpose would be served by continuing the applicant in judicial custody.

6. The learned APP has vehemently opposed the present application. By referring to the aforesaid four cases, in which the applicant has been arraigned as accused, it was emphasized that in the said cases, registered in the years 2002 and 2005, the applicant was released on bail on different dates, but since he violated the conditions imposed in the said orders and he did not abide by the specific conditions, eventually, non-bailable warrants had to be issued on 03.04.2019, resulting in his arrest on 30.04.2019, concerning the aforesaid four cases.

7. In the present case, he remained absconding throughout and he was never arrested. In such a situation, it was submitted that looking to the propensity of the applicant to violate with impunity the conditions imposed by the competent Courts, the applicant does not deserve any indulgence. It is submitted that in the present case, serious offence under Section 467 of the

IPC is also registered, which provides for maximum punishment of imprisonment for life and considering the fact that from the year 2008, when the present FIR was registered, the applicant has remained absconding, this application deserves to be dismissed.

8. The material on record does indicate that insofar as the present case is concerned, arising out of FIR No.68 of 2008, the applicant could not be arrested. He was eventually arrested on 15.04.2024.

9. At the same time, it is to be noted that in the other four cases, bearing FIR Nos.78 of 2002, 83 of 2002, 12 of 2005 and 50 of 2005, wherein the same investigating agency i.e. EOW is prosecuting the applicant, he was arrested after the FIR was registered and he had been released on bail. Thereafter, non-bailable warrants had to be issued on 03.04.2019, resulting in the arrest of the applicant on 30.04.2019 in the context of the aforesaid four cases.

10. The applicant having been arrested on 30.04.2019, in the context of the aforesaid four cases being prosecuted by the EOW, the said investigating agency could very well have arrested the accused in the present case i.e. FIR No.68 of 2008. It is inexplicable as to why EOW did not take any steps to arrest the applicant in respect of the present case, despite the fact that he was arrested and remained in custody from 30.04.2019 till 10.06.2019, when he was granted bail by the concerned Court in respect of the aforesaid four cases. As noted hereinabove, thereafter, he was arrested on 15.04.2024 in respect of the present case. After being arrested on the said date, he has continued to remain behind bars for more than 6 months.

11. There can be no doubt about the fact that the past conduct of the applicant does indicate his propensity to violate the orders passed by the Court. But, that in itself cannot be a ground to dismiss the present application. In the present case, charges are yet to be framed and there does not appear to be any possibility of the trial being completed in the foreseeable future. In such circumstances, no purpose would be served by continuing the custody of the applicant. Although it is alleged that the applicant was actively involved in forging and fabricating the documents, in order to assist the co-accused person, there is no material to indicate that he was the beneficiary of the said activity. It is relevant that the main beneficiary is out on bail. The apprehension expressed by the learned APP can be addressed by imposing stringent conditions on the applicant.

12. In view of the above, the application is allowed in the following terms:

- (i) The applicant shall be released on bail in connection with FIR No.68 of 2008, registered with EOW, Unit VII, Mumbai (FIR No.226 of 2008, registered with Gamdevi Police Station), on furnishing PR Bond of ₹ 1,00,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant, upon being released on bail, shall report to the office of EOW, Unit VII, Mumbai on first and third Monday of each month between 10:00 a.m. and 12:00 noon, during the pendency of trial.
- (iii) Upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change.
- (iv) The applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted, for the

reasons to be recorded in writing.

- (v) The applicant shall surrender his passport, if any, with the trial Court.
- (vi) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

13. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions are violated.

14. At this stage, the learned senior counsel for the applicant prays for cash security, till the surety is furnished.

15. The applicant is permitted to furnish cash security of ₹ 1,00,000/- for a period of two weeks. No further time shall be granted.

16. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

17. The application is disposed of.

(MANISH PITALE, J)

Priya Kambli