

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3343 OF 2024**

Mubarak Vahid Patel ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Sameer Dashrath Hatle a/w. Mr. Amit S. Mishra for applicant.

Mr. Mayur S. Sonavane, APP for respondent-State.

Mr. Uttam Mane, P.I., EOW Unit-9, Banking-I, Mumbai.

CORAM : MANISH PITALE, J.

DATE : 14th DECEMBER, 2024

P.C. :

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

2. The applicant is seeking bail as he was arrested on 04.02.2022 in connection with FIR No.10 of 2016 dated 12.01.2016 registered at V. B. Nagar Police Station, Mumbai, for offences under Sections 419, 420, 465, 467, 498, 471 and 120-B of the Indian Penal Code, 1860 (IPC).

3. The allegation against the applicant is that he, in connivance with the co-accused persons, duped a co-operative bank of huge amount of money and in the process, he was party to forgery and fabrication of documents.

4. The learned counsel for the applicant submits that in the present case, the applicant, as on today, has suffered incarceration for 2 years 10 months and 10 days. It is submitted that the other two co-accused persons have been granted bail, including the alleged main accused person i.e. Manojkumar Ramshankar Pande. It is brought to the notice of this Court that the said main accused person was granted bail by the Sessions Court itself by order dated

18.03.2021, primarily on the ground of period of incarceration suffered and the stage of proceeding before the trial Court.

5. It is further brought to the notice of this Court that there are three other FIRs registered against the applicant for similar allegations and he has been granted bail in all those three FIRs. In one of the said cases, this Court (Coram: N. J. Jamadar, J), by an order dated 15.04.2024 passed in Bail Application No.3425 of 2023, granted bail to the applicant, making certain observations in paragraph Nos.7, 8 and 9 of the said order, which can inure to the benefit of the applicant herein. It is submitted that charge is yet to be framed and the prosecution intends to examine as many as 69 witnesses, thereby showing that there is no possibility of the trial being completed within reasonable period of time.

6. On the other hand, the learned APP submits that this case involves misappropriation and cheating of huge amount of money to the tune of ₹ 3 crores. It is emphasized that the co-operative bank was duped by the accused persons, including the applicant and there are serious allegations of forgery and fabrication against them. It is submitted that according to the prosecution, the applicant is also the beneficiary, as part of the amount was diverted towards settling the overdraft facility.

7. This Court has considered the rival submissions, in the backdrop of the material placed on record. It is an admitted position that the main accused person i.e. the stated beneficiary in the present case viz. Manojkumar Ramshankar Pande, who availed loan for the aforesaid huge amount, on the basis of purported forged and fabricated document, was enlarged on bail by the Sessions Court itself, primarily on the ground of period of incarceration and the stage of trial. Although the period of incarceration undergone by the

applicant herein is less than that of the main accused person, it cannot be ignored that the applicant himself has suffered incarceration for 2 years 10 months and 10 days. It is also relevant to note that in the order dated 15.04.2024 passed in Anticipatory Bail Application No.3425 of 2023, whereby the applicant was granted bail in an FIR concerning similar allegations, certain observations were made to the effect that it could be a matter for trial, as to whether offence under Section 467 of the IPC would be attracted in respect of the applicant or not. Other than the said offence, punishment for offences registered against the applicant, provide for imprisonment for a period upto 7 years. This is a relevant factor for considering the present application also.

8. It is an admitted position that while the prosecution intends to examine 69 witnesses, as on today, even the charge has not been framed, thereby demonstrating that there is little possibility of the trial commencing in the near future and that there is no possibility of the trial being completed within reasonable period of time.

9. In such circumstances, the Supreme Court has indicated that no purpose would be served by continuing the custody of the accused undertrials, so long as they co-operate with the proceedings before the trial Court and appropriate conditions are imposed upon them while granting bail.

10. 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.10 of 2016 dated 12.01.2016 registered at V. B. Nagar Police Station, Mumbai, on furnishing PR Bond of ₹ 50,000/- 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 V. B. Nagar Police Station, Mumbai on first Monday of every 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 surrender his passport before the jurisdictional Magistrate and shall not leave the country without prior permission of the jurisdictional Magistrate.
- (v) 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.
- (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.

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

12. 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.

13. The application is disposed of.

(MANISH PITALE, J)