IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1105 OF 2025

1. SACHIN S/O. RAMESH WAGHMARE,
Age: 37 Years, Occ.: Indian Bank Branch Manager
R/o. Pimpalgaon Dukra, Flat No.19,
Sereniety Apartment, Sansari Naka, Devlali Nahsik,
Tq. Egatpuri, Dist. Nashik

2. NITIN S/O. NARAYANRAO LAKHOLE,
Age: 36 Years, Occu: Clerk Indian Bank,
R/o. House No.30, Galli No.3,
Bhavaninagar Old Mondha,
Chhatrapati Sambhajinagar **.. Applicants**

VERSUS

. THE STATE OF MAHARASHTRA,
Through Jawaharnagar Police Station,
Tq. & Dist. Chhatrapati Sambhajinagar **..Respondent**

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Advocate for Applicants: Mr. A. M. Gaikwad
APP for the Respondent/State: Mr. S. K. Shirse

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CORAM : ARUN R. PEDNEKER, J.

DATE : 23.07.2025

ORDER :

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

2] The applicants are seeking bail as they were arrested on 11.01.2025 in connection with Crime No.427/2024, dated 21.12.2024, registered with

Jawaharnagar Police Station, District Aurangabad, for the offences punishable under Sections 316(2), 318(4), 316(5), 336(2), 336(3), 338, 340(2), 61(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3] It is the case of the prosecution that informant is serving as Sport Officer in the Department of Sports and Youth Services at Aurangabad. Since the year 2022, his department has hired employees on contract basis from outsourcing agency M/s. Disha Facilities Pvt. Ltd. for daily maintenance and management work. Accused No. 1 – Harshkumar Kshirsagar was appointed as Computer Operator and thereafter in the year 2023 accused No. 2 Yashoda Shetty was appointed as Accounts Clerk. Both of them were appointed through outsourcing agency M/s. Web Multi Services on contract basis for their daily official work i.e. clerical, accounts, administrative etc. Along with them, in all 19 other employees were also appointed. There is bank account of said department in Indian Bank in which Government funds were being deposited. It is alleged that during the period from 4.6.2024 till 7.12.2024 accused Nos. 1 and 2 fabricated email ID of the office by forging letter of Superior Officer and thereby transferred amount of Rs. 21,59,38,287/- in their account from the account of their department and thereafter transferred the same in the account of different persons.

4] The applicants herein i.e. applicant no.1 is the bank officers working with Indian Bank (Allahabad Bank) main Branch, Jalna Road, Chhatrapati Sambhajinagar *[hereinafter referred to as "**the Bank**"]* as a Manager and applicant no.2 is the Clerk of the Bank where the account of the Divisional Sports Complex Committee was operated. It is the case of the informant that the Divisional Sports Complex Committee had opened the Bank account No.50085495707. The earstwhile President by it's letter dated 07.03.2009 had issued directions to operate the said Bank account by signature of the Secretary / Divisional Sports Complex Committee in place of earlier practice of operation of the bank account by two signatory i.e. President and the Secretary. The concerned Clerk is authorized to maintain the cashbook and other transactions in respect of the banking and operation of the account. The official e-mail ID of the committee is dydsportsabad@gmail.com. It has been alleged that vide the communication dated 26.09.2023 the specimen signature of Sanjay Sabnis has been given for the operation of the bank account and the bank account is operated by the signature of Sanjay Sabnis, who is the Secretary of the Divisional Sports Complex Committee. It is alleged that for the day to day working of the committee the committee has outsource the employees provided by Disha Facilities Pvt. Ltd. and has engaged contractual employees.

5] The allegation against the present applicant is that the applicants at the instance of the accused no.1 has permitted the change of the mobile number and the e-mail ID of the account and on change it was found that the bank account which had earlier balance of Rs.22,89,10,473/- was left with only 01,36,97,145/-. It has been found that during the period of 01.07.2024 to 07.12.2024 accused no.1 has carried out huge suspicious transactions by availing internet facility. It is stated that his request for updation of the mobile number belonging to him bearing no. +918080496662 was sent from e-mail ID dydsportsabad@gmail.com. Thereafter, it is alleged that letter was fabricated by accused no.1 bearing signature of the Secretary and request was made to the Bank for providing internet banking facility for updation of the mobile number i.e. accused no.1's mobile number, above number. Based on the above documents, the e-mail address was changed, so also, the internet facility was provided for operation of the account.

6] The case of the prosecution as regards the present applicants is concerned is that they have not verified the originating e-mail ID of the account, so also, has not personally verified, whether there is legitimate request for change of e-mail ID and for updation of mobile number. Thus, non verification of the above data has lead the change in the e-mail ID and change of the mobile number and provision of internet facility to the account to an unauthrized person, who had in turn has siphoned of the money from the account of the Sports Compelx of approximately Rs.21,59,38,287/- and the employees as above are responsible for the same. The FIR is lodged. In response to the FIR, the applicants are arrested on 11.01.2025 and they continue to be in jail. Charge-sheet in the matter is filed.

7] The learned counsel for the applicants submits that the applicants are the bank employees and they acted in regular course of duties and a clever fraud was played by the co-accused, who were involved in defalcation of the account and since the employees were engaged by the Divisional Sports Complex Committee they had no caution to doubt the beneficieries of the e-mail ID or the mobile numbers provided by the contractual employees. It may be said that they have acted bonafidely. He submits that not a single rupee is received by the applicants and there is no connection of the applicants with the co-accused, who has defalcated the amounts of Divisional Sports Complex Committee.

8] Per contra, the learned APP submits that the actions of the applicants are responsible for the legitimate account of the Divisional Sports Complex Committee belonging to the State going into the hands of the co-accused, who has defalcated the said account by Rs.21,59,38,287/- and urged that bail be rejected.

9] Having considered the rival submissions, it is required to be noted that the applicants are the employees of the bank and they have acted in the regular course of business. However, at best, from the material on record, it can be said that they have acted negligently. There is no material to indicate that the applicants were connected with accused no.1. There is evidence that accused no.1 has further paid money to various other persons. However, there is not a single transaction showing payment made to the present applicants by accused no.1, so also, there is no evidence of connection between accused no.1 and the applicants established through CDR record or otherwise.

10] The applicants are in jail from 11.01.2025 and charge-sheet in the matter is filed and, at this moment, there is no material connecting accused no.1 to the applicants, so also, there is no evidence of any amount being received by the applicants from accused no.1 and being beneficiary of the wrongful transaction. At the highest, it can be said that the applicants are negligent. Investigation in the matter is completed and keeping the applicants behind the bars further would not be in the interest of justice. Thus, the applicants can be granted bail.

11] In view of the above, the application is allowed in the following terms :

a] The applicants shall be released on bail in connection with Crime No.427/2024, dated 21.12.2024, registered with Jawaharnagar Police Station, District Aurangabad, for the offences punishable under Sections 316(2), 318(4), 316(5), 336(2), 336(3), 338, 340(2), 61(2) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023, on furnishing PR bond of Rs.20,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicants, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicants shall co-operate with the trial Court and they shall attend each and every date, unless exempted by the trial Court.

d] The applicants shall not tamper with the evidence of the prosecution and they shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicants, upon being released on bail, shall place on record of the trial Court the details of his Contact Numbers and residential address with updates in case of any change.

12] Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicants shall be liable to be cancelled.

13] It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

14] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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