Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1098 OF 2024

Nitin Suresh Khare … Applicant
V/s.
State of Maharashtra … Respondent

Ms. Maya S. Updeshe for the Applicant.

Mrs. Mahalakshmi Ganapathy, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 4, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.1244 of 2022 registered with Sakinaka Police Station, Mumbai. The applicant is alleged to have committed offences punishable under Sections 419, 420, 465, 467, 468, and 471 read with Section 34 of the Indian Penal Code, 1860.

2. The prosecution case, as set out in the charge-sheet and the accompanying material, is briefly stated thus: the applicant was working with ICICI Bank, Chandivali Branch, Mumbai, as a Processing Officer on a contractual basis. ICICI Bank had tie-ups with 16 aggregator companies to facilitate credit card usage by their customers. Upon such usage, eligible customers were entitled to cash back benefits. The relevant transaction data from the aggregator companies used to be forwarded to the Bank for the purpose of processing these cash back benefits.

3. The applicant, in his role, was responsible for preparing monthly data regarding customers who were eligible for such cash back benefits. Upon collecting necessary transaction information, the applicant was required to prepare data sheets and forward the same to his superior officers for approval. After such sanction, the approved entries were uploaded into the banking system, which led to the actual credit of the cash back amounts into the respective customers' accounts.

4. The matter came to light when, on 31st August 2021, a complaint was received from a credit card customer who claimed to have received cash back despite not having used the card. A similar complaint was again received on 25th September 2021. During this period, the applicant had already tendered his resignation from the bank. Upon receipt of the complaints, when the matter was forwarded to the concerned department for clarification, it is alleged that the applicant suddenly left the office without giving any prior intimation and left behind his bag.

5. Given the applicant's sudden and unexplained departure and the nature of the complaints, the Bank initiated an internal inquiry. During this verification, it was found that as many as 83 credit card accounts, which were not reflected in the transaction reports from any of the aggregator companies, had been credited with cash back amounts between 19th January 2021 and 27th August

2021. These suspicious credits were allegedly carried out by the applicant.

6. Further scrutiny revealed that these credit cards were predominantly used at 12 merchant locations, and the cash back benefits, instead of reaching genuine customers, were deposited into the bank account of a trader based in Nashik. Additional investigation also revealed that several other credit card transactions, involving 54 different locations, had taken place amounting to a sum of ₹5,54,768/-. On analysis of data and banking transactions, it was found that the applicant had manually processed and entered such ineligible cash back entries in favour of persons known to him, in clear violation of the bank's internal protocols and eligibility norms.

7. The internal inquiry and subsequent investigation led to the conclusion that the applicant, in connivance with other persons, had orchestrated a systematic fraud and misappropriated a total sum of ₹4,10,03,124/- by exploiting his official position and tampering with the banking systems for personal gain. On these allegations, the FIR came to be lodged and the present criminal proceedings were initiated.

8. The learned Advocate appearing for the applicant submitted that the applicant has been falsely implicated in the present case. According to him, the applicant has been made a scapegoat by his superior officers in order to shield themselves from responsibility. It is pointed out that the applicant was working only on a contractual basis and his duty was confined to the preparation of data relating to the credit card holders. He had no authority or control to approve or sanction any cash back transactions. Such powers were exclusively vested in the Chief Manager and Branch Manager of the bank. The learned counsel submitted that the applicant merely forwarded the collected data to the appropriate department for further processing and approval. He had no discretionary power in releasing or processing any cash back benefit.

9. The learned Advocate further submitted that the material on record clearly shows that it was Accused No.2 – Tarun Chandrana, who was actively involved in executing the fraudulent transactions by procuring credit cards and using them for unauthorized cash back benefits through card-swiping machines. It is contended that the majority of the witnesses examined by the Investigating Officer are connected with Accused No.2, and that several of them had handed over their credit cards to him with the intention of receiving cash back benefits to which they were not entitled. It is also argued that many of these witnesses are bank employees, and their statements cannot be treated as wholly reliable since they may have an interest in protecting themselves or others. Furthermore, it is submitted that the bank has already reversed some of the allegedly fraudulent entries and has recovered an amount of ₹1.14 lakh. The learned counsel pointed out that four entities to which cash back amounts were transferred are admittedly linked to Accused No.2, his brother, and his wife, and that there is no such connection between the applicant and those companies.

10. It is further argued that at no point was any money transferred to the personal bank account of the applicant. The entire amount, according to the defence, was routed to the Manager and the Chief Manager through Accused No.2. The learned Advocate also brought to the Court's notice that the bank has already filed a civil recovery suit against Accused No.2 and one Hemendra Chandrana for a sum of ₹3,20,93,923/-. This, according to the applicant, substantiates his contention that the primary responsibility lies with Accused No.2 and the other co-accused, and not with him.

11. The learned counsel also sought to discredit the prosecution's claim that 56 out of the 83 credit card accounts were fraudulently used during the period between 19 January 2021 to 27 August 2021, by pointing out that the bank has not received any complaint from those customers. According to the applicant, these figures are manipulated by the Investigating Officer only to show wrongful gain by the applicant, without any supporting material. In support of the prayer for bail, reliance is placed on the judgment of the Supreme Court in *Sanjay Chandra v. Central Bureau of Investigation*, AIR 2012 SC 830, to urge that bail should be granted where the trial is likely to take a long time and the accused is not a flight risk.

12. Per contra, the learned Additional Public Prosecutor (APP) strongly opposed the bail application and submitted that the applicant, during his tenure as a contractual employee with ICICI Bank, had indulged in serious financial fraud. It is alleged that the applicant had deliberately created fake entries in the bank's system by inserting the details of credit card holders known to him, and portrayed such entries as genuine transactions. Although the concerned cardholders were not eligible for any cash back, the applicant, in collusion with Accused No.2, allegedly managed to siphon off a total amount of ₹4,10,03,124/- through such fabricated entries.

13. The learned APP pointed out that the investigation has revealed that several individuals acted as per the instructions of the applicant, and the misappropriated funds were routed into their respective bank accounts. The entire fraudulent scheme came to light when one customer raised a grievance after receiving an unsolicited cash back, without having made any credit card transaction. A second complaint of a similar nature was received on 25th September 2021. Around the same time, the applicant tendered his resignation and abruptly left the office without giving any notice or intimation, which raised further suspicion. Upon internal verification by the bank, it was found that 83 credit card accounts, none of which had been reported by any aggregator company, had repeatedly received cash back credits between 19th January 2021 and 27th August 2021.

14. The learned APP further submitted that during investigation it was revealed that the applicant had shared information about the cash back offer with Accused No.2 and had also provided names of credit card holders known to him. The applicant allegedly instructed Accused No.2 to transfer the fraudulently obtained amounts into 12 different bank accounts, which were either known to or connected with the applicant. Based on these instructions, an amount of ₹1,54,27,000/- was transferred. It is further alleged that Accused No.2 sent ₹35 lakh in cash to the applicant and retained the remaining amount.

15. The prosecution has also placed reliance on the statements of certain individuals, who are said to be close friends of the applicant, and in whose accounts the money was received. These persons have reportedly given statements admitting that they had returned the cash amounts to the applicant. The names and amounts returned, as recorded, are as follows: Pankaj Pawar – ₹11 lakh, Atul Ashok Pawar – ₹5 lakh, Avishkar Jogdand – ₹15 lakh, Vishal Nikalje – ₹10 lakh, Bhalchandra Talekar – ₹8.98 lakh, and Sandesh Borude – ₹2 lakh. These statements, according to the prosecution, further corroborate the applicant's active role in the conspiracy.

16. It was also pointed out by the learned APP that the applicant, after the alleged offence, had repaid his existing personal loans and made fixed deposits in the name of his wife. The prosecution contends that these financial transactions were made using the proceeds of the crime. During the course of the investigation, forged cash back data sheets and fabricated sanction memos, allegedly prepared by the applicant and submitted to his senior officers, were also recovered and seized by the investigating agency.

17. Having regard to the magnitude and seriousness of the financial fraud, the learned APP submitted that there is a strong possibility that, if released on bail, the applicant may tamper with the evidence or attempt to influence the witnesses. It is therefore prayed that the application for bail be rejected in the interest of justice and to ensure the integrity of the ongoing investigation.

18. I have carefully considered the submissions advanced by the learned Advocate for the applicant and the learned Additional Public Prosecutor for the State. I have also perused the material placed on record, including the FIR, statements of witnesses, and documents relied upon by both sides.

19. The allegations against the applicant are serious in nature and pertain to a large-scale financial fraud involving misappropriation of public funds. It is alleged that the applicant, while working with ICICI Bank as a Processing Officer, used his access to internal systems to manually generate cash back entries in favour of ineligible credit card holders known to him. According to the prosecution, the applicant, in collusion with Accused No.2, created false data and caused wrongful gain to the tune of ₹4.10 Crores to various individuals, while causing corresponding loss to the bank.

20. It is also alleged that the fraud came to light only after two customers made complaints about receiving unsolicited cash backs. Notably, the applicant resigned and left the bank premises abruptly during the same period, without giving notice or handing over responsibility, which prima facie strengthens the suspicion about his role in the offence.

21. From the investigation papers placed on record, it has clearly emerged that 83 credit card accounts were credited with cash back benefits multiple times during the period between 19th January 2021 and 27th August 2021. It is not disputed that these credit card transactions were not routed through any of the aggregator companies with whom the bank had officially tied up for such cash back schemes. The data relating to these 83 accounts was not part of the standard transmission process followed by aggregator companies, which forms the basis of eligibility for granting cash back.

22. What is particularly noteworthy is that the cash back entries in these cases were not generated through automated banking processes, but were manually inserted into the system. This suggests a deliberate bypassing of the standard protocol, and reflects human intervention with full knowledge of the consequences. In a highly regulated financial system, such unauthorized manual entries cannot occur unless there is specific access to internal systems and an intention to misuse the same.

23. The prosecution has alleged that the applicant was the person responsible for preparing such data sheets and inserting the cash back entries manually. The applicant was entrusted with handling cashback data as part of his role in the bank, and had operational access to the relevant systems. Thus, prima facie, the person making such entries had both the means and the opportunity, which points to the applicant's involvement.

24. The manner in which the entries were created, outside the purview of any verified transaction records or aggregator data—shows that these were not mere technical errors or clerical mistakes. The repetition of such entries across several months in multiple accounts, without any underlying genuine transaction, indicates a pattern of planned misappropriation rather than any inadvertent act.

25. In such circumstances, this Court finds that there is a strong prima facie case against the applicant with regard to the role played by him in the unauthorized processing of cash back benefits. The allegation is not of passive negligence but of active manipulation of bank records, which is a serious economic offence affecting the financial institution's integrity and public trust.

26. It is further the case of the prosecution that friends and associates of the applicant, in whose bank accounts the amounts were deposited, have stated that they handed back the money to the applicant. The names of such persons and the amounts involved have been detailed, and these statements are corroborative in nature. At this stage, these statements, supported by bank transaction records, prima facie indicate the applicant's involvement in orchestrating the fraudulent transactions and receiving the proceeds of the crime.

27. It is also brought on record that the applicant repaid personal loans and created fixed deposits in his wife's name shortly after the period of the alleged fraud. Although the applicant contends that he had no authority to approve cash back and merely prepared data, the fact remains that the forged sanction memos and cashback data sheets recovered by the investigating agency were allegedly prepared by him, and form part of the fraudulent documentation. The scope of the applicant's role in facilitating the scheme appears to be more than a mere data entry function.

28. The judgment in *Sanjay Chandra v. Central Bureau of Investigation*, AIR 2012 SC 830, relied upon by the applicant, deals with the general principle that bail is the rule and jail the exception. However, in the present case, the nature and gravity of the offence, the volume of the financial loss caused, the manner of execution of the fraud involving misuse of an official position, and the possibility of tampering with witnesses and evidence, who appear to be persons known to the applicant, make this case clearly distinguishable.

29. It is also pertinent to note that the investigation is at a crucial stage. Several aspects such as recovery of funds, identification of digital trails, and the exact role of all co-accused, including the bank officers who allegedly benefited, are still under scrutiny. Releasing the applicant on bail at this juncture is likely to prejudice the ongoing investigation.

30. Considering the gravity of the alleged offence, the magnitude of the amount involved, the systemic abuse of banking operations, and the possibility of the applicant influencing witnesses who are either his friends or former colleagues, this Court is not inclined to grant bail at this stage. The applicant does not deserve the benefit of bail, particularly when the investigation is still unfolding and key witnesses are yet to be examined before the trial court.

31. In view of the above discussion and upon careful consideration of the nature and gravity of the allegations, the material collected during investigation, and the possibility of the applicant tampering with evidence or influencing witnesses, this Court is of the opinion that no case is made out for grant of bail at this stage.

32. Hence, the bail application stands rejected.

33. It is made clear that the observations made in this order are only for the purpose of deciding the present bail application, and the trial Court shall not be influenced by any of these observations at the time of conducting the trial.

(AMIT BORKAR, J.)