AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5468 OF 2024

Dharam Singh @ Dharmendra Kumar Singh ... Applicant

V/s.

The State of Maharashtra ... Respondent

Ms. Prajakta N. Deshmukh with Mr. Akshay More for the applicant.

Mr. Prasanna M. Malshe, APP for the respondent-State.

Mr. Rajratna Khairnar, Khandeshwar Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 22, 2025

P.C.:

1. The present bail application is filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks regular bail in connection with Crime Register No.108 of 2024 registered with Khandeshwar Police Station for offences punishable under Sections 406, 409, 420, and 467 of the Indian Penal Code, 1860.

2. As per prosecution, one Mr. Rupal Kumar Vijalbhai Vadhel lodged a complaint. He stated that he is engaged in arranging loans and investments in the share market and earns commission therefrom. His friend, Mr. Kamalji Sancheti, expressed willingness to invest money with the object of securing benefits under Section 80-G of the Income Tax Act. The complainant knew one Manish for about three months, who was working in CASR. Manish assured him of investment opportunities in CASR and also under Section 80-G. Accordingly, the complainant and Kamalji met Manish at Bandra. In that meeting, Manish introduced them to Mr. Chandrashekhar. Thereafter, both Manish and Chandrashekhar remained in touch with them and informed that if they invest Rs.50 lakh in Automotive Company, they would receive extra benefit of Rs.25 lakh.

3. Relying on these assurances, the complainant and Kamalji arranged Rs.50 lakh. On 27 February 2023, they met Manish and Chandrashekhar at Andheri Railway Station. Chandrashekhar then contacted one Paras Shah, who gave him the contact number of Mr. Ganesh Bhandari. On contacting, Bhandari asked them to meet at Panvel at 8.00 p.m. In that meeting, it was agreed that the company would transfer Rs.75 lakh through RTGS against their investment of Rs.50 lakh. Thereafter, the complainant was taken to the office of Ramanand Multistate Cooperative Credit Society Ltd., where he was told to open a bank account. Account opening forms were filled and signatures were taken on certain agreements. The complainant then handed over Rs.50 lakh. He was assured that the passbook and other documents would be provided the next day. On 28 February 2024, the complainant visited the said bank where he met Bhandari, Mr. Ahire and Mr. Shree. They informed him that due to audit, documents could not be given. Despite repeated follow-ups, only a pay slip of Rs.50,000 was issued with the explanation that the credit society cannot accept more than Rs.50,000 in cash. Later, Rs.35,000 was credited in the Trust account of Mr. Sancheti. On 29 February 2024, one Mr. Sahil shared a screenshot with Chandrashekhar claiming that Rs.1.5 crore was transferred through INFT. On inquiry, the complainant was told that he would not understand and that it would take 5-6 hours. Till 1 March 2024, no amount was received. Attempts to contact the accused persons failed. Later, it was revealed that Bhandari, Shree, and Ahire were not employees of the said bank. Realising that they were cheated, FIR came to be registered.

4. Learned Advocate for the applicant submitted that the only allegation against the applicant in the charge-sheet is that he was present when the amount promised by accused No.1 was being counted. The only material against the applicant is the statement of co-accused recorded under Section 27 of the Indian Evidence Act, which, insofar as it implicates the applicant, is inadmissible. Apart from this, there is no material to connect the applicant with the offence. She fairly conceded that the applicant has antecedents in a similar nature of offence. However, she submitted that the said antecedent is proximate in time to the present case and cannot by itself justify his continued custody. She further submitted that the applicant was arrested on 7 July 2024. Investigation is now complete and charge-sheet has been filed. Hence, further pre-trial detention of the applicant is not required.

5. On the other hand, learned APP opposed the bail application. He submitted that the allegations are serious. The applicant is an associate of accused No.1. He was present when the money was counted. There are also allegations of similar offences in the past. Hence, considering his role and antecedents, he is not entitled to grant of bail.

6. I have considered the rival submissions and gone through the record. It is undisputed that the main allegations are against accused No.1 and others who actively induced the complainant to part with Rs.50 lakh. The role attributed to the present applicant is limited to his presence at the time when the money was counted. There is no material to show that he made any representation to the complainant, handled the transaction, or derived any direct benefit from the alleged fraud.

7. The law is well settled that mere presence of a person at the scene, without active participation or involvement, cannot by itself be a ground to deny bail unless there is cogent material connecting him with the commission of the offence. The evidentiary value of the co-accused's statement under Section 27 of the Evidence Act is limited. It cannot by itself constitute sufficient ground to prolong custody of the applicant.

8. The applicant is in custody since 7 July 2024. The investigation is complete and charge-sheet is already filed. Hence, further custodial interrogation is not necessary. The trial is likely to take considerable time. Continued pre-trial detention would amount to punishment before conviction.

9. As regards antecedents, though there is reference to a similar offence, it is proximate in time to the present case and cannot, in absence of independent material, be treated as a ground to deny bail. The apprehension of misuse of liberty can be addressed by imposing appropriate conditions.

10. Considering the totality of circumstances, I am of the opinion that this is a fit case to grant bail to the applicant.

11. Hence, following order is passed:

i) The bail application is allowed;

ii) The applicant is directed to be released on regular bail in connection with Crime Register No.108 of 2024 registered with Khandeshwar Police Station Police Station for offences punishable under Sections 406, 409, 420, and 467 of the Indian Penal Code, 1860 IPC , upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the Khandeshwar Police Station once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the State of Maharashtra without prior written permission of the Trial Court.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

12. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)