

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 208 OF 2025

Dr. Peter Dhanraj. ... Applicant.
Vs.
The State of Maharashtra ... Respondent.

Mr. Aditya R. Parmar a/w. Mr. Abdul Wahab Shaikh, Mr. Mushtaq Shaikh, i/b. Subhash Hulyalkar, Advocate for the Applicant.
Dr. Ashvini A. Takalkar, APP for Respondent/State.

CORAM : ASHWIN D. BHOBE, J.

DATE : 14th JULY, 2025.

P.C. :

1. Heard Mr. Aditya Parmar, learned Advocate for the Applicant and Dr. Ashvini Takalkar, learned APP for State.

2. By the present Application filed under Section 483 (1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the Applicant is seeking the following reliefs:

“a. Modify Condition No. 2 of the bail order dated 07.02.2025 by deleting the requirement to deposit Rs. 10,00,000/- in installments by June 2025.

b. Substitute the said condition with appropriate non-monetary safeguards sufficient to ensure the applicant's participation in the trial.”

3. Applicant is an accused in Crime No. 1111 of 2024 registered with Wakad Police Station, Pune for the offences punishable under section 420, 406, 467, 468, 471, 120B r/w. 34 of the Indian Penal Code (for short “IPC”) with Section 66-D of Information Technology Act, 2000 and Section 3 & 4 of Maharashtra Protection of Interest of Depositors Act 1999 (for short “MPID Act”). Said Crime is registered as Special (MPID) Case No. 1496 of 2024 and the same is pending on the file of the learned Additional Sessions Judge, Pune.

4. By order dated 18th January, 2025, the learned Additional Sessions Judge, Pune has released the Applicant on bail on the following bail conditions :

“1] Application Exh. 4 is allowed.

2] Applicant Peter Dhanraj be released on bail in connection with CR No.1111/2024 on execution of P.B. and S.B. in the sum of Rs.1,00,000/-with one solvent surety of the like amount and he is further directed to deposit Rs. 4.00 lakhs (Rs. Four Lakhs only) prior to releasing him on bail and after releasing on bail he shall deposit Rs.10.00 lakhs (Rs. Ten lakhs only) till the end of June 2025 in installments.

3] Applicant shall attend the concerned police station on every Monday during 11.00 a.m. to 1.00 p.m. and whenever required by the IO till filing of the charge sheet.

4] Applicant shall file on record the authentic proof of residence - both permanent and present. The applicant shall, at the time of execution of the bond, furnish his/her address and mobile number along with residential address's and mobile numbers of his/her two close relatives to the Investigating officer, and shall inform the change in residence if any.

5] Applicant shall not tamper with evidence or pressurize witnesses in any manner whatsoever.

6] Applicant shall not leave the jurisdiction of this court without prior permission of investigating officer in writing.

7] Applicant shall regularly remain present during the trial and co-operate to complete the trial for the above offences. Applicant shall not commit any offence while availing liberty, if breach of any of the above conditions is committed, the bail granted to accused-applicant will be automatically cancelled.

8] Bail before concerned court.”

5. Mr. Aditya Parmar, learned Advocate for the Applicant submits that the Applicant had neither made any representation to deposit the amount which is alleged to be the amount covered by the Crime nor offered any deposit of amount for securing bail. He submits that bail condition No. 2 in the order dated 18th January, 2025 is unjustifiable.

6. The issue in the present Application is whether the learned Additional Sessions Judge, Pune was right in imposing of financial deposit as a condition for bail ?

7. In the case of *Ramesh Kumar vs. State (NCT of Delhi)*¹, the Hon'ble Supreme Court in paras 22, 23, 24, 25 & 26 has observed as under :-

“22. We may next take note of two decisions of this Court of recent origin.

23. In Dilip Singh v.State of M.P. [Dilip Singh v.State of M.P., (2021) 2 SCC 779 : (2021) 2 SCC (Cri) 106] , this Court sounded a note of caution in the following words : (SCC p. 780, paras 3-4)

“3. By imposing the condition of deposit of Rs 41 lakhs, the High Court has, in an application for pre-arrest bail under Section 438 of the Criminal Procedure Code, virtually issued directions in the nature of recovery in a civil suit.

4. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for realisation of disputed dues. It is open to a court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of

¹ (2023)7 SCC 461.

the accused at the time of trial or the likelihood of his abscondence; character, behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.”

24. *Yet again in Bimla Tiwari v. State of Bihar [Bimla Tiwari v. State of Bihar, (2023) 11 SCC 607 : 2023 SCC OnLine SC 51] , this is what the Court said : (SCC paras 9-11)*

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

11. We would further emphasize that, ordinarily, there is no justification in adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings.”

25. Law regarding exercise of discretion while granting a prayer for bail under Section 438CrPC having been authoritatively laid down by this Court, we cannot but disapprove the imposition of a condition of the nature under challenge. Assuming that there is substance in the allegation of the complainants that the appellant (either in connivance with the builder or even in the absence of any such connivance) has cheated the complainants, the investigation is yet to result in a charge-sheet being filed under Section 173(2)CrPC, not to speak of the alleged offence being proved before the competent trial court in accordance with the settled procedures and the applicable laws. Sub-section (2) of Section 438CrPC does empower the High Court or the Court of Session to impose such conditions while making a direction under sub-section (1) as it may think fit in the light of the facts of the particular case and such direction may include the conditions as in clauses (i) to (iv) thereof. However, a reading of the precedents laid down by this Court referred to above makes the position of law clear that the conditions to be imposed must not be onerous or unreasonable or excessive. In the context of grant of bail, all such conditions that would facilitate the appearance of the accused before the investigating officer/court, unhindered completion of investigation/trial and safety of the community assume relevance. However, inclusion of a condition for payment of money by the applicant for bail tends to create an impression that bail could be secured by depositing money alleged to

have been cheated. That is really not the purpose and intent of the provisions for grant of bail.

26. We may, however, not be understood to have laid down the law that in no case should willingness to make payment/deposit by the accused be considered before grant of an order for bail. In exceptional cases such as where an allegation of misappropriation of public money by the accused is levelled and the accused while seeking indulgence of the court to have his liberty secured/restored volunteers to account for the whole or any part of the public money allegedly misappropriated by him, it would be open to the court concerned to consider whether in the larger public interest the money misappropriated should be allowed to be deposited before the application for anticipatory bail/bail is taken up for final consideration. After all, no court should be averse to putting public money back in the system if the situation is conducive therefor. We are minded to think that this approach would be in the larger interest of the community. However, such an approach would not be warranted in cases of private disputes where private parties complain of their money being involved in the offence of cheating.”

8. In the case of ***Dataram Singh Vs. State of Uttar Pradesh and another***², the Hon'ble Supreme Court has observed that the conditions for the grant of bail ought not be so strict as to be incapable of compliance, thereby making the grant of bail illusory.

9. In the case of ***M.D. Dhanapal Vs. State represented by the Inspector of Police***³, the Hon'ble Supreme Court in Paragraph-6 has

² (2018)3 SCC 22.

³ (2019)6 SCC 743.

observed that it is well settled that bail cannot be made conditional upon heavy deposits beyond the financial capacity of an Applicant for bail.

10. Perusal of the Application for bail, filed by the Applicant before the learned Additional Sessions Judge, Pune, does not indicate the Applicant having made any request for deposit or having shown willingness to deposit any amount for securing bail. Similarly, order dated 18.01.2025 does not indicate any submissions being advanced on behalf of the Applicant showing willingness to deposit any amount. In such circumstances, directing deposit of amount involved in the crime, would be unjustifiable considering the law on the subject.

11. The Hon'ble Supreme Court in the case of ***Apruva Kirti Mehta v. State of Maharashtra***⁴ in paras 6, 7 & 8 has re-iterated the view in the case of ***Ramesh Kumar (Supra)***. Paras 6, 7 & 8 are reproduced hereinbelow :-

“6. The High Court while proceeding to dismiss the applications was of the opinion that the appellant had volunteered to make payment of Rs. 40,00,000/- and the Sessions Judge granted the prayer for bail “taking into account the voluntary statement made on his behalf.

7. The High Court does not seem to be entirely correct in its understanding of the order of the Sessions Judge dated 19th May, 2023. No doubt the

⁴ 2025 SCC OnLine SC 336.

appellant had made a voluntary statement to make payment but that was not the sole reason which weighed in the mind of the Sessions Judge to grant bail; on the contrary, the observations made in paragraph 5 by the Sessions Judge is a clear pointer that there was no sufficient reason to keep the appellant under detention having regard to completion of the investigation and filing of the charge-sheet.

8. That apart, the direction for payment was in the teeth of a plethora of decisions of this Court. We can profitably refer to a few of them, viz. Ramesh Kumar v. State (NCT of Delhi); St. George Dsouza v. State (NCT of Delhi) and Dilip Singh v. State of M.P.. Having regard to the principles of law laid down in the said decisions, inter alia, to the effect that the courts, exercising jurisdiction to grant bail/pre-arrest bail, are not expected to act as recovery agents for realization of dues of the complainant from the accused, the High Court should have independently applied its mind and arrived at a conclusion as to whether a case for grant of bail, on settled parameters, had been made out or not irrespective of whatever statement was made on behalf of the appellant before the Sessions Judge.”

12. Dr. Takalkar, learned APP does not dispute the position of law as referred to herein above. She however, submits that the Applicant has deposited an amount of Rs. 4 Lakhs before the learned Trial Court. She submits that the nature of the crime and the allegations made against the Applicant the amount of Rs. 4 Lakhs deposited by the Applicant, may be continued as an deposit with the Trial Court, subject to the outcome of the proceedings. Mr. Parmar, on instructions from the Applicant states that the said

amount of Rs. 4 Lakhs already deposited before the Trial Court may continue to lie before the learned Trial Court till the disposal of the trial, subject to the outcome.

13. In view of the above, bail condition in the order dated 18th January, 2025, passed by the learned Additional Sessions Judge, Pune in Special (MPID) Case No. 1496 of 2024, directing the Applicant to deposit 10 Lakhs in installments is set aside.

14. Criminal Application is allowed. Rest of the conditions in the order dated 18th January, 2025 passed by the learned Additional Sessions Judge, Pune on Application at Exh. 4 in Special (MCOCA) No. 1496 of 2024 to continue.

15. Criminal Application No. 208 of 2025 is disposed of on the above terms.

(ASHWIN D. BHOBE, J.)