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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.120 OF 2025

Raza Amin Khan … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.698 OF 2025
IN
BAIL APPLICATION NO.120 OF 2025

Mohd. Ishaq Beepat Chaudhary … Applicant
In the matter between
Mohd. Raza Amin Khan … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Milan Desai for the applicant in bail application.

Mr. Meet R. with Ms. Neha Bhawsar for the Intervener

Ms. Megha S. Bajoria, APP for the State.

Mr. Ajinath Funde, PSI, Bandra Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 30, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks to be released on regular bail in connection with Crime No.1498 of 2022 registered with Bandra Police Station, Mumbai. The said crime is registered for the offences punishable under Section 420 read with Section 34 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, as reflected in the charge-sheet, the first informant is engaged in the business of supplying construction material such as cement and sand. In the course of his business activities, the applicant used to regularly purchase construction material from him for the purposes of his building work. Due to such transactions, the applicant and the first informant came to know each other well and had cordial business relations. It is alleged that in the month of September 2016, the applicant informed the first informant that he had purchased a plot of land situated at Chapel Road, Bandra (West), Mumbai. The applicant also stated that he was planning to construct a building on the said plot, and in that context offered to sell a room admeasuring approximately 600 sq. ft. in the proposed building for a consideration of ₹60 lakhs. Relying upon the long-standing acquaintance and business dealings with the applicant, the first informant agreed to purchase the said room. He believed the representation made by the applicant to be genuine, as the applicant was already a regular customer who used to procure building material from him.

3. Thereafter, the first informant made payment to the applicant on three occasions, ₹8 lakhs on 10th September 2016, another ₹8 lakhs on 12th September 2016, and ₹4 lakhs on 14th September 2016, all through cheques. Thus, a total sum of ₹20 lakhs was paid via cheque. In addition to the said amount, the first informant allegedly paid another ₹20 lakhs in cash. It is stated that upon receiving the above consideration, the applicant executed a Memorandum of Understanding (MoU) with the first informant acknowledging the transaction.

4. It is the further case of the first informant that after a period of approximately 25 months, he came to know that the applicant had already sold the said flat to a third party. Thereafter, when the applicant came in contact with him, he informed the informant that the development rights in respect of the said land had been handed over to one Mr. Kashif Iqbalalli Syyed and his associate Mr. Habibullah Khan. The applicant assured the informant that he would arrange for an agreement with the said new developers in respect of the flat. Subsequently, on 14th November 2018, an agreement was executed by the said new developers in favour of the first informant. However, it is alleged that four days after execution of the said agreement, the applicant again demanded and accepted ₹1,75,000/- from the first informant.

5. The first informant later came to know that even the said room/flat was sold to a different party by the developers Mr. Kashif and his partner. Due to the COVID-19 pandemic and resultant lockdown, the first informant was unable to personally meet the applicant and seek clarification. It is further alleged that on 31st October 2021, between 01:00 p.m. to 02:00 p.m., the first informant, along with his friend Abu Sorathiya and the latter's son, who too had allegedly paid ₹13 lakhs to the applicant under a similar pretext, visited the applicant's residence at Malwani, Malad, Mumbai. At the said premises, they met 4 to 5 women, to whom they narrated their grievance. It is stated that the applicant's wife, on hearing the complaint, denied any knowledge of such transactions and allegedly threatened them that if they did not leave, she would ensure that they are falsely implicated in some criminal case.It is also the case of the prosecution that while they were returning, the applicant's son, accompanied by 5-6 unknown persons, approached them and after verbally abusing, threatened them with dire consequences and warned them of being falsely implicated in a criminal case at Malwani Police Station.

6. Based on these events, on 23rd August 2022, the first informant approached the Bandra Police Station and lodged a formal complaint against the present applicant, which ultimately resulted in registration of the present offence.

7. Learned advocate appearing for the applicant has drawn attention of this Court to the nature of allegations made in the complaint. He submits that as per the complainant's own case, the applicant had accepted a total amount of ₹60 lakh from the complainant and had assured to sell and convey a flat admeasuring 600 sq. ft. in a proposed construction project. However, subsequently, the said property came to be transferred in favour of co-accused Mr. Kashif. The complainant himself has thereafter entered into a Memorandum of Understanding (MoU) with the said Mr. Kashif for the said flat. It is further submitted that Mr. Kashif, who is one of the co-accused, has already been granted bail. The learned advocate has argued that the essential ingredient of the offence under Section 420 of the Indian Penal Code, namely, that there was dishonest intention at the very inception of the transaction, is not established from the materials placed on record. According to the complainant's own version, the applicant was the owner of the property at the time of entering into the agreement. Thus, it cannot be said, at least prima facie, that there was any fraudulent or dishonest intent from the very beginning on the part of the applicant. It is submitted that the applicant has been arrested on 13th August 2023 and has remained in custody since then. The maximum punishment prescribed for the offence under Section 420 IPC is imprisonment of seven years. In these circumstances, the applicant seeks to be released on regular bail.

8. On the other hand, the learned Additional Public Prosecutor, assisted by the learned counsel appearing for the original complainant, has opposed the bail application. They have submitted that the conduct of the applicant clearly reflects that from the very beginning, he never had any intention to transfer the ownership or title of the flat to the complainant. Despite having received a large sum of ₹60 lakh, the applicant neither honoured the original commitment nor refunded the said amount. It is further submitted that the so-called MoU with co-accused Kashif was merely a façade and ultimately the flat was sold to a third party, thereby causing wrongful loss to the complainant. They therefore argue that the present case involves cheating of a serious nature, and hence, the application for bail deserves to be rejected.

9. I have considered the submissions advanced by the learned counsel for the applicant, the learned APP, and the learned advocate appearing for the original complainant. I have also perused the material placed on record including the charge-sheet.

10. Upon a prima facie assessment of the case, it appears that the core allegation revolves around a transaction pertaining to purchase of a flat, in which the applicant is alleged to have received ₹60 lakh from the complainant. However, the documents on record, including the Memorandum of Understanding and subsequent agreement entered into with the co-accused Mr. Kashif, suggest that the dispute essentially stems from a failed or disputed property transaction. It is not a case where there is immediate material to show that the promise made by the applicant was false at its inception.

11. It is further noted that at the time of execution of the MoU, the applicant was admittedly the owner of the land, as per the complainant's own version. Subsequently, the development rights came to be transferred in favour of co-accused Mr. Kashif and his partner, with whom the complainant also entered into an agreement. Thus, the circumstances do not, at this stage, conclusively establish that the applicant had fraudulent intention from the beginning.

12. Co-accused Mr. Kashif, who is alleged to have later dealt with the said flat and even sold it to a third party, has already been released on bail. No distinction has been brought on record which would justify continued detention of the present applicant while the co-accused enjoys liberty.

13. The applicant has been in custody since 13th August 2023. The investigation is complete and charge-sheet has been filed. The custodial interrogation of the applicant is no longer necessary. The offence alleged under Section 420 IPC carries a maximum punishment of seven years. The trial is likely to take considerable time. No material is placed before this Court to show that the applicant, if released on bail, is likely to abscond or tamper with the evidence or influence witnesses.

14. In view of the above circumstances and considering the nature of the allegations, the stage of the trial, and the period of incarceration already undergone, I am of the opinion that further detention of the applicant is not warranted. The applicant deserves to be released on bail with appropriate conditions to secure his presence during the trial.

15. Hence, the following order is passed.

i) The bail application is allowed;

ii) The applicant Raza Amin Khan is directed to be released on regular bail in connection with Crime No. 1498 of 2022 registered with Bandra Police Station for offences punishable under Section 420 read with 34 of the Indian Penal Code, 1860, 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 report the Bandra Police Station on first Monday of every third month between 10.00 a.m. to 12.00 noon, until further orders.

b) The applicant shall not tamper with the evidence or attempt to influence any witness.

c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

16. The bail application is allowed and disposed of.

17. The interim application stands disposed of.

(AMIT BORKAR, J.)