Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 126 OF 2025

Vinod Sana Waghela @ Vijay Ramchandra Dhotre @ Sandip Baviskar .. Applicant

Versus

The State of Maharashtra .. Respondent

…………………

- Mr. Mayur Vinod Faria, Advocate for Applicant.
- Ms. Savita M. Yadav, APP for Respondent – State.

…………………

CORAM : MILIND N. JADHAV, J.

DATE : MAY 09, 2025.

P.C.:

1. Heard Mr. Faria, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R.No.216 of 2022 registered with Vitthalwadi Police Station, Thane for the offences punishable under Sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code, 1860 (for short '**IPC**').

3. Applicant in the present case is 56 years old and arraigned as Accused No.2 in the crime. He is incarcerated for the past 2 years, 8 months and 19 days in prison pending trial having been arrested on 24.08.2022. Case of the First Informant is that Accused No.1 a lady had duped him by receiving substantial amount and in lieu thereof promising a government job to the First Informant. In the FIR which is lodged on 18.06.2022, First Informant states that he came across Accused No.1 having been referred to him by some friend who promised to give him a government job if he would pay certain amount to her. First Informant has stated that he paid an amount of Rs.3.5 lakhs initially to Accused No.1 whereas his cousin brother paid a further amount of Rs.4.5 lakhs to her. According to prosecution case an amount of Rs.8 lakhs was paid to Accused No.1 in lieu of First Informant expecting a government job in return. After the said amount was paid, Accused No.1 handed over appointment letter and certain government documents to First Informant putting him in the belief that he had procured a government job.

4. However, those documents turned out to have been forged and fabricated and First Informant did not receive any such real job offer. Hence he filed the present complaint. In the FIR registered by First Informant, Accused No.2 is not named. This is significant because the FIR is directed against Accused No.1. However, in the course of investigation, prosecution has recorded several statements of witnesses and some witnesses have come forward and stated that while advancing monies to Accused No.1 she had informed them that Accused No.2 – present Applicant before me would be instrumental in assisting and aiding her in procurement of a government job for them. Case of prosecution against Applicant is based on the basis of witness statement appended to the Application that he prepared false and fabricated appointment letters endorsing the seal of the Municipal Corporation and other documents which were given by Accused No.1 to gullible persons who approached her for a government job and paid substantial amounts to her.

5. Learned Advocate for Applicant would persuade the Court to consider the fact that there is no money trail whatsoever of Applicant having been received any amount through Accused No.1. He would submit that there is a substantial delay in filing the FIR by First Informant. In the present case itself First Informant has approached the Prosecution Agency after a delay of more than 8 months after he having paid substantial amount to Accused No.1.

6. Next, he would submit that First Informant has also not revealed name of Accused No.2 i.e. present Applicant who is indicted in the present case. Therefore he would persuade the Court to enlarge the Applicant – Accused No.2 on bail since he has suffered incarceration for more than 2 years and 8 months in prison pending trial.

7. Ms. Yadav, learned APP appearing on behalf of Respondent – State would persuade me to reject the Bail Application on the ground of Applicant – Accused No.2 in the present crime having played a pivotal role in fabricating and procuring false documents and appointment letters to lure gullible expectants like the First Informant and such persons have recorded their statements wherein they have stated that at the behest of Accused No.1 they have also advanced substantial amount to present Applicant. She has taken me through the statements of persons who have given / advanced monies to Accused No.1 wherein at some places name of Applicant also figures as he having received some amount. Apart from the above, there is no other incriminating material whatsoever qua the present Applicant.

8. I have considered the rival submissions of the learned Advocates and perused the record of the case.

9. *Prima facie* it is seen that Applicant has been arrested on 24.08.2022 in the present crime which was registered on 18.06.2022 by First Informant. In so far as FIR and First Informant's statement are concerned, it is *prima facie* seen that First Informant paid an amount of Rs.8 lakhs in two tranches namely Rs.3.5 lakhs and Rs.4.5 lakhs (through his cousin brother) to Accused No.1.

10. In so far as case against present Applicant is concerned, nothing is stated in the FIR but it is prosecution case on further investigation that appointment letter and government documents given by Accused No.1 to the persons who had paid the amounts were prepared by Accused No.2 and obtained from him.

11. Record also reveals that Accused No.1 categorically informed the persons who had paid substantial amounts to her that if she was not in a position to secure them a government job, then she would return the money back to them. In the case of some of the persons who had paid up like the First Informant, the Accused No.1 had given them cheques which were subsequently dishonoured.

12. In the above circumstances, it is *prima facie* seen that in so far as indictment and accusation against Applicant is concerned, according to prosecution case he has played a part in preparation of forged and fabricated documents. Accusation as can be seen emanating from the charge-sheet and the prosecution record is general in nature and not specific.

13. Needless to state that prosecution can establish complicity of Applicant and specifically pertaining to his alleged role at trial on evidence.

14. In view of the aforesaid *prima facie* observations and most importantly fact that Accused No.1 has already been enlarged on bail, in my opinion, further custody of Applicant is not warranted. He has already been incarcerated for 2 years, 8 months and 19 days pending trial, there is no possibility of trial commencing or concluding in the near foreseeable future and due to these reasons Applicant is directed to be released on bail.

15. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

16. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

17. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay