

Shabnoor

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

BAIL APPLICATION NO.142 OF 2025

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Roshan @ Raj Yashwant Shirsekar	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Manas N. Gwankar a/w Mr. Shreyas N. Gawankar,
for the applicant.

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

Mr. Manoj N Kudmate, Chembur Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant is seeking his release on bail in connection with Crime Register No. 116 of 2015 registered at Chembur Police Station, Mumbai. The offences registered against the applicant are under Sections 120 (concealing a design to commit an offence), 465 (forgery), 468 (forgery for the purpose of cheating), 471 (using a forged document or electronic record as genuine), read with Section 34 (common intention) of the Indian Penal Code, 1860.

2. The case of the prosecution is that the applicant had availed of a loan of ₹17 lakhs from the State Bank of India for purchasing two cars. It is alleged that, in order to obtain the said loan, the applicant submitted forged and fabricated documents. After

receiving the loan amount, he failed to repay the same. Consequently, the Manager of the Bank lodged a report with the police, which led to the registration of the present crime and arrest of the applicant. During the course of investigation, two Eco Sports cars were recovered in connection with the said loan transaction.

3. It is further revealed from the record that on an earlier occasion, this Court had granted bail to the applicant by order dated 29th August 2019 in Bail Application No. 2108 of 2019. The order of bail was passed after considering the affidavit and assurance given by the applicant that he would deposit ₹5 lakh within one week from the date of the order, and the remaining ₹5 lakh within eight weeks from the date of his release on bail. The Court had specifically observed that in the event of failure to comply with this undertaking, the prosecution would be at liberty to move for cancellation of bail. Subsequently, the applicant failed to honour the assurance given to the Court. As a result, by an order dated 28th February 2024, the earlier order of bail was recalled and the bail granted to the applicant was cancelled.

4. Now, the applicant has again approached this Court seeking bail. The main ground pressed in support of the bail application is the delay in commencement of trial. It is submitted that the offences alleged carry a maximum punishment of up to 7 years. The applicant has already undergone a period of incarceration of approximately 2 years and 2 months. Hence, his further continued detention without any progress in trial would amount to denial of his fundamental right to a speedy trial guaranteed under Article 21 of the Constitution of India. It is submitted that prolonged pre-trial

detention, in absence of any likelihood of early conclusion of trial, is unjust and excessive.

5. On the other hand, learned APP has strongly opposed the application. She submitted that the applicant had earlier committed a breach of trust by failing to comply with the solemn undertaking given to the Court. She pointed out that bail was granted subject to specific conditions, which were violated by the applicant. Therefore, according to her, the applicant does not deserve the indulgence of bail for a second time. It is further argued that the bank has still not recovered the loan amount, and hence, the release of the applicant would adversely affect the interest of justice and public confidence.

6. Having considered the submissions made by the learned counsel for the applicant and the learned APP for the State, as well as the documents placed on record, following points emerge for consideration:

6.1. It is not in dispute that the applicant was previously granted bail by this Court by order dated 29th August 2019, subject to specific conditions, including the deposit of ₹10 lakh in a phased manner. However, the applicant failed to comply with that undertaking.

6.2. The failure to honour a solemn assurance given to the Court is a serious matter and reflects disregard for the authority of the Court. In fact, it led to cancellation of the earlier bail by this Court on 28th February 2024.

6.3. However, it is equally a matter of record that since the

cancellation of bail, the applicant has remained in custody. As of now, he has undergone approximately 2 years and 2 months in pre-trial detention. The chargesheet is already filed, and there is no material placed on record to indicate that trial has either commenced or is likely to conclude in the near future.

6.4. The maximum sentence for the offences alleged against the applicant is 7 years. Therefore, considering the settled principles laid down by the Hon'ble Supreme Court in the case of *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51, and in *Union of India v. K.A. Najeeb*, AIR 2021 SC 712, prolonged pre-trial incarceration, especially when trial is not progressing, infringes the right to speedy trial under Article 21 of the Constitution.

6.5. The purpose of bail is not to impose a punishment before conviction, but to secure the presence of the accused during trial. In the present case, there is no material to show that the applicant has misused liberty while on bail, except the default in payment, which though serious, does not indicate any threat to the witnesses or obstruction in the trial process.

6.6. This Court is also mindful of the fact that mere failure to deposit amount as per the undertaking—though improper—cannot be the sole ground for denying bail indefinitely, especially when trial is not progressing and the applicant has

already suffered considerable incarceration.

6.7. Appropriate conditions can be imposed to secure the interest of the prosecution and ensure the applicant's cooperation with the trial.

7. In view of the above discussion, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant is directed to be released on bail in connection with Crime Register No. 116 of 2015 registered with Chembur Police Station, Mumbai, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court.

(c) The applicant shall not tamper with evidence, influence witnesses, or attempt to delay the trial in any manner. He shall attend all hearings of the Trial Court regularly unless exempted for bona fide reasons.

(d) The applicant shall inform the Investigating Officer and the concerned Court about any change in his residential address.

(g) All observations made in this order are only for the purpose of deciding this bail application, and the Trial Court shall not be influenced by them at the stage of trial.

(AMIT BORKAR, J.)