

Ajay

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

CRIMINAL BAIL APPLICATION NO. 86 OF 2025

Mohanmurari Kamala Shankar Mishra	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 580 OF 2025**

Kiran Suresh Sansare @ Sushant Kulkarni	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Shirish Gupte, Senior Advocate a/w. Ms. Racheeta Dhuru, Ms. Prchi Parte and Mr. Rohit Patil, Advocates for Applicant in Bail Application No.86 of 2025.
 - Mr. Jernold Xavier a/.w Carina Xavier, Ms. Gauri Jadhav and Mr. Raj Ambekar, Advocates for Applicant in Bail Application No.580 of 2025.
 - Mr. R.M. Pethe, APP for Respondent – State in both Bail Applications.
 - Mr. Nilesh Bankar, API – Crime Branch, Unit – 1, Navi Mumbai present.

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CORAM : MILIND N. JADHAV, J.
DATE : APRIL 23, 2025.

P.C.:

1. Heard Mr. Gupte, learned Senior Advocate for Applicant in Bail Application No.86 of 2025; Mr. Xavier, learned Advocate for Applicant in Bail Application No.580 of 2025 and Mr. Pethe, learned APP for Respondent – State in both Bail Applications.

2. On 27.02.2025, after hearing Mr. Gupte, learned Senior Advocate for Applicant and Mr. Pethe, learned APP for the State in Bail

Application No.86 of 2025, the following order was passed:-

“1. Heard Mr. Gupte, learned Senior Advocate for Applicant and Mr. Pethe, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No.172 of 2022 registered with CBD Belapur Police Station for the offences punishable under Sections 420, 170 and 120-B read with 34 of the Indian Penal Code, 1860.

3. Mr. Gupte, learned Senior Advocate for Applicant has argued that the role of the Applicant arraigned as Accused No.2 in the present crime is far lesser as compared to the main Accused namely Accused No.1 and others, 4 co-accused persons who have been enlarged on bail by this Court and the Supreme Court and in respect of 5 other co-accused persons the prosecution has stated that they will not take any coercive steps against them due to their pending Anticipatory Bail Applications. The date of the crime is 16.08.2022. There is a chain of incidents between 16.08.2022 and 11.10.2022 eventually leading to the filing of the FIR on 14.10.2022.

4. Prima facie, it is seen that Accused No.1 alongwith Accused No.4 approached the First Informant on 16.08.2022 and convinced him to accompany him to exchange old currency notes with the new currency notes which he promised to help him. First Informant carried a bag full of Rs.3.5 crores and he alongwith the 2 Accused persons boarded a mini van to proceed to the RBI in Mumbai. They were intercepted by a Car i.e. Innova Car having 6 persons on the way. On Accused No.1's confirmation that occupants of the Innova Car were RBI officials and sources who will exchange the old currency notes with new, the First Informant handed over the bag containing Rs.3.5 Crores to the persons / occupants of the Innova Car and they left.

5. In so far as the present Applicant before me is concerned, he is one of the occupant of the said Innova Car out of the 6 persons therein. He has been identified in the Test Identification parade by the First Informant.

6. Mr. Gupte, learned Senior Advocate has placed before me order of the Supreme Court dated 02.12.2024 which has been passed after the rejection of Application for bail of Accused No.1 and Accused No.4 alongwith another co-accused Mohanmurari on 27.06.2024 by this Court. He would submit that despite the rejection of the bail application in June, 2024, the Supreme Court has allowed the bail of the main Accused No.1 by its order dated 02.12.2024 while considering the facts and circumstances of the case and the period of incarceration undergone by the said principal co-accused being more than 2 years.

7. *He has also relied upon the order dated 11.10.2023 passed in Bail Application No.1112 of 2023 in respect of another co-accused namely Zuber Abdul Salam Divekar wherein this Court has granted him bail. Zuber is the driver of the pick-up van in which the First Informant was travelling with Accused Nos.1 and 4 when it was intercepted by the Innova Car in which the present Applicant was one of the occupant. Reliance is also placed on the another order dated 14.03.2024 in respect of co-accused namely Rajesh Keshavlal Thumar arraigned as Accused No.5 being one of the conspirators in the crime in question. From what is submitted before the Court is the presence of Applicant in the Innova Car and the CDRs between the co-accused and he being one of the conspirators.*

8. *Mr. Gupte, learned Senior Advocate would submit that the Applicant has no antecedents and considering his long incarceration as also the specific chain of facts whereby pursuant to the order dated 27.06.2024, the Supreme Court having enlarged the main Accused on bail by its order dated 02.12.2024, this Court may consider the present Application for bail on changed circumstances.*

9. *Mr. Pethe, learned APP would persuade me to consider the provisions of Section 362 of the Code of Criminal Procedure, 1973 and would submit that role of the Applicant has been clearly delineated in paragraph No.15 of the order dated 27.06.2024 by this Court and his Bail Application is rejected on merits and there are no changed circumstances. He would submit that present Application filed by the Applicant would therefore clearly amount to a review of the earlier rejected Bail Application.*

10. *Mr. Pethe, learned APP persuades the Court to permit him to file Affidavit within a period of two weeks from today positively. After the appropriate Affidavit is filed, Bail Application of the Applicant shall be considered.*

11. *List the Bail Application on Board on 13th March, 2025."*

3. Mr. Pethe, learned APP has filed Affidavit dated 07.03.2025 in compliance of and pursuant to the above order. Though he has touched upon the issue of maintainability of the present Application in view of the previous Bail Application for bail having been rejected on merits by order dated 27.06.2024 and there are no changed circumstances, I am of the *prima facie* opinion that every day's

incarceration of an under-trial Accused person would amount to a change in circumstance which would entitle him to file a fresh Application for bail on merits. It is seen that the previous order was passed by this Court on 27.06.2024 copy of which is appended at page No.93 of Bail Application No.86 of 2025. That order rejected the Application for bail filed by 3 of the co-accused persons namely Accused No.4, Accused No.2 – present Applicant and Accused No.1. According to prosecution case, Accused No.1 is the principal conspirator of the crime in question. It is further seen that the said order was challenged separately by Accused Nos.1 and 4 before the Supreme Court and the Supreme Court by separate orders dated 02.12.2024 enlarged Accused Nos.1 and 4 on bail. Copies of those orders are appended at page Nos.116 and 118 of Bail Application No.86 of 2025 respectively. I have perused the said orders. In my opinion, nothing can preclude the Applicants from filing the present Bail Applications before this Court and preclude the Court from considering the same.

4. Present Application bearing Criminal Bail Application No.86 of 2025 is heard alongwith Criminal Bail Application No.580 of 2025. Criminal Bail Application No.86 of 2025 is filed by Accused No.2 whereas Criminal Bail Application No.580 of 2025 is filed by Accused No.6. Considering that both the co-accused persons are Accused persons in the same crime, common order is passed as both the Bail

Applications are heard together.

5. According to prosecution case the role which is attributed to Accused No.2 is that he was the occupant of the Innova Car which was intercepted by the Mini Van. Case of the prosecution is that First Informant boarded the Mini Van to proceed to the Reserve Bank of India (RBI) in Mumbai alongwith Accused No.1 for exchanging old currency cash of Rs.3.5 crores. The said Mini Van was intercepted by the Innova Car comprising of 6 persons on their way and case of prosecution is that Accused No.2 was one of the occupant of the Innova Car. Accused No.1 informed the First Informant that occupants of the Innova Car were RBI officials and his sources who would exchange the old currency notes with the new currency notes and at the behest of Accused No.1, First Informant handed over the bag containing the cash to the persons / occupants of the Innova Car and they left from there thereafter. Save and except the above, there is no other role attributed to Accused No.2 in the present case.

6. Mr. Xavier, learned Advocate for Accused No.6 has pointed out that same is the case of the prosecution against Accused No.6 also. He would submit that in addition thereto it has been alleged by prosecution that Accused No.7 had introduced Accused No.6 to the First Informant as the treasurer working in RBI in a mall. Further case of prosecution against Accused No.6 is that he was a beneficiary and

recipient of an amount of Rs.3.5 lakhs out of the total amount of Rs.3.5 crores which was handed over to the occupants of Innova Car comprising of 6 Accused persons.

7. Mr. Pethe, learned APP appearing for the prosecution would submit that case of prosecution as against Accused persons should not be viewed lightly in view of the fact that they have committed an offence of cheating against the Society at large. He would submit that the humongous amount of currency notes which were handed over to the Accused persons seated in the Innova Car was on the false pretext and impression that they were officials of the RBI who would exchange the old currency notes with new currency notes for the First Informant. He would persuade the Court to consider the Affidavit-in-Reply and the gravity of the crime and reject the Application of the Applicants.

8. I have heard Mr. Gupte, learned Senior Advocate for Applicant in Bail Application No.86 of 2025; Mr. Xavier, learned Advocate for Applicant in Bail Application No.580 of 2025 and Mr. Pethe, learned APP for Respondent – State in both Bail Applications and with their able assistance perused the record of the case.

9. *Prima facie* it is seen that 13 Accused persons are indicted in the present crime. It is seen that ad interim order has been passed in Anticipatory Bail Applications of Accused Nos.7 to 13 by the Court granting them protection from Court. That apart, it is seen that on the

basis of long incarceration pending trial Accused No.1 who is the principal conspirator according to the prosecution and Accused No.4 both have been enlarged on bail by the Supreme Court. Similarly Accused No.3 and Accused No.5 have been enlarged on bail by this Court. I have perused the orders passed by the Supreme Court and the High Court which are appended to the Applications. In so far as Accused No.6 is concerned, there is already a recovery of Rs.1.35 lakhs effected from him as against the prosecution case of he having received an amount of Rs.3.5 lakhs.

10. Considering the role attributed to Accused No.6 which is *prima facie* at par with the other co-accused persons who were occupants of the Innova Car and who have been enlarged on bail, Accused No.6 deserves to be enlarged on bail on the ground of parity and his long incarceration pending trial. Similarly, the *prima facie* material as against Accused No.2 is hearsay and same can be proved at the time of trial before the Trial Court by the prosecution and therefore on parity his case can also be considered for grant of bail.

11. In view of the above *prima facie* observations, considering the twin grounds of parity and long incarceration pending trial of the Applicants, both Bail Applications are allowed subject to the following terms and conditions:-

(i) Applicants are directed to be released on bail on

furnishing P.R. Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount;

- (ii) Applicants are permitted to furnish provisional cash bail of Rs.50,000/- each for their release immediately and file undertaking that they will provide one or two sureties in the like amount of Rs.50,000/- each within a period of four weeks after their release which shall be accepted by the Trial Court. Applicants shall provide sureties as directed;
- (iii) Before their actual release from jail, Applicants shall furnish their address where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;
- (iv) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (v) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicants shall mark presence on the next working day;

- (vi) Applicants 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 they do so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicants 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 their attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

12. 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.

13. Both Bail Applications are allowed and disposed.

[MILIND N. JADHAV, J.]

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