AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.681 OF 2025

Bala Raman Krishnan ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.1158 OF 2025
IN
BAIL APPLICATION NO.681 OF 2025

Saroja Khan ... Applicant
In the matter between
Bala Raman Krishnan ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Aabad Ponda, Senior Advocate with Mr. Vikrand D. Singh Negi, Ms. Ekta Tyagi, Mr. Pratik Thakkar, Ms. Priyamvada Singhania, Ms. Anjali Shah, Ms. Sneha Barange, Mr. Saurabh Arora, and Mr. Parab Kabra i/by DSK Legal for the applicant in BA.

Mr. Sanjog Parab, Senior Advocate with Mr. Manvendra Kane, Mr. Kedar Patil, Ms. Amruta Thakur, Ms. Divya Raut, Ms. Sulbha Rane, Mr. Mohan Rao, Ms. Sakshi Parab, and Ms. Sakshi Kadam i/by Mr. Pratik Tare for the intervenor/original complainant in IA.

Ms. Supriya I. Kak for the respondent-State.

Mr. Aniket Hivarkar, API, Chembur Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No.498 of 2023, registered with Chembur Police Station, Mumbai. The said crime is registered for offences punishable under Sections 420, 406, 467, 468 and 34 of the Indian Penal Code, 1860, which relate to cheating, criminal breach of trust, and forgery, respectively.

2. As per the case of the prosecution, the allegations against the applicant are that he, along with his co-accused wife, dishonestly and fraudulently took undue advantage of the trust reposed in them by the complainant. It is alleged that from 20 September 2021 to 20 April 2023, the applicant, by misusing the confidence of the complainant, opened a joint savings bank account and a Dmat account in Axis Bank in the name of the complainant and himself. During this process, the applicant is said to have taken the signatures of the complainant on several documents without disclosing their actual content and without her knowledge or consent.

3. It is further alleged that the mobile number and email ID of the applicant were linked to the said joint accounts, and he retained complete access and control over them. In the said joint Dmat account, the applicant appointed his wife, Aslesha, as the nominee, thereby gaining further authority over the complainant's investments.

4. The prosecution contends that on 20 September 2021, the applicant and his wife transferred fixed deposits belonging to the complainant from her account in HDFC Bank to the applicant's account in Indian Bank. Thereafter, between 4 January 2022 and 20 April 2023, the shares of nine different companies, valued at Rs.8,01,31,000/-, were allegedly transferred by the co-accused to the accounts of the applicant and his wife, which were subsequently used for the applicant's personal import business.

5. The total amount misappropriated, as per the allegations, is to the tune of Rs.10,01,31,000/-. Out of this, a sum of Rs.1,05,00,000/- is stated to have been directly utilized by the applicant's wife, and thus, the complainant approached the police and lodged the First Information Report (FIR) against the applicant and the co-accused.

6. The said FIR was registered on 29 August 2023, and the applicant was subsequently arrested on 28 June 2024. The charge-sheet was filed on 23 August 2024, and later, a supplementary charge-sheet was filed on 25 February 2024, in which Sections 467 and 468 of the IPC—relating to forgery of valuable security and forgery for the purpose of cheating—were added against the applicant and co-accused.

7. Mr. Ponda, learned Senior Advocate appearing on behalf of the applicant, submitted that the complainant was an elderly lady who had lost her husband in the year 2019 and later her younger daughter in June 2020. He pointed out that the complainant was not in cordial terms with her elder daughter, who is residing in

Sivakashi, Tamil Nadu. In this background, the applicant, out of compassion and humanity, stepped in to take care of the complainant. It was argued that the applicant admitted the complainant to hospital on several occasions, looked after her as if she were his own mother, and this fact has been acknowledged by the complainant in her own statement. In recognition of this care and affection, the complainant voluntarily executed a registered Will dated 23rd September 2021 in favour of the applicant, bequeathing all her assets to him. The said Will is stated to be supported by a medical certificate of soundness and attested by two independent witnesses.

8. The learned Senior Advocate submitted that an amount of Rs.2 crore, which was lying in fixed deposits in the complainant's HDFC Bank account, was voluntarily transferred by her to the applicant's Indian Bank account. In support of this, an affidavit dated 25th September 2021 executed by the complainant has been relied upon, wherein she has categorically stated that the applicant was like a son to her and that the said transfer was made out of her free will. It is submitted that this affidavit, which supports the applicant's case, has not been made part of the charge-sheet and appears to have been suppressed by the complainant. It was further contended that the bank statements and records, including those of bank officials, indicate that the transactions were made as per the instructions of the complainant, and with her full knowledge and consent. Even the joint savings and Dmat accounts with the applicant were allegedly opened voluntarily by the complainant.

9. In respect of the change in the complainant's contact details, the learned Senior Advocate referred to page 45 of the charge-sheet, where the complainant herself has admitted that she received an SMS on 30th September 2021 regarding the change in contact information. It is submitted that this indicates that the complainant was aware of the changes made and did not raise any objection at the relevant time.

10. With regard to the opening of the joint Dmat account with Axis Bank, it is argued that the applicant's mobile number and email ID were given in the application form in the presence of the complainant. The statements of the Sales Officer and Senior Manager of Axis Bank have been referred to, wherein it is stated that the said account was a priority account for senior citizens, and was in the nature of an either/or survivor account. The shares were allegedly transferred to this account based on Dmat transfer forms duly signed by the complainant, which were verified and endorsed by the Relationship Head of HDFC Bank, who has stated in his statement that the complainant had read and understood the delivery instruction slips, and confirmed the transfer of shares. It was also mentioned that the said bank official had personally visited the complainant's house to verify that the transfer was indeed voluntary. Additionally, the complainant is stated to have executed an affidavit dated 24th November 2021, confirming the transfer of shares worth Rs.12 crore from her HDFC Dmat account to the joint Axis Dmat account. In the said affidavit, she specifically stated that no third party, including Mrs. Latha Ganeshan, should raise any dispute regarding such transfer.

11. The learned Senior Advocate also pointed out that in the year 2022, the complainant further authorized the applicant to rent out her residential flat, and for that purpose, executed a Special Power of Attorney in favour of the applicant.

12. It was thus submitted that the entire dispute is civil in nature, and has now been given a colour of criminality with the sole intention of harassing the applicant. The applicant is a permanent resident of Mumbai, has deep roots in society, and is taking care of his minor daughter aged 16 years, who is pursuing her education. The applicant does not have any criminal antecedents, and the apprehension of tampering with evidence is unfounded, particularly as the case is based primarily on documentary records already in possession of the Investigating Agency.

13. It is further submitted that the applicant has been fully cooperative during the course of investigation and has duly complied with the notice issued under Section 41-A of the Cr.P.C. on 21st September 2023 by appearing before the Investigating Officer on 24th September 2023. The charge-sheet has already been filed, and no further custodial interrogation of the applicant is warranted. The applicant has been in judicial custody for almost one year, and there is no likelihood of the trial commencing in the near future. In these circumstances, and keeping in view the applicant's right to personal liberty under Article 21 of the Constitution, it is urged that the applicant be granted regular bail.

14. On the other hand, the learned APP strongly opposed the grant of bail and submitted that the allegations against the applicant are grave and serious in nature. It was submitted that the applicant took undue advantage of the old age and vulnerability of the complainant, who is a 90-year-old widow, and managed to get transferred a large amount of Rs.10,01,31,000/- into the accounts of himself and his wife. The prosecution contends that the said amount, which belonged to the complainant, was not held in trust or for her benefit, but was diverted and misappropriated by the applicant and his wife for their personal use.

15. Mr. Parab, learned Senior Advocate appearing on behalf of the complainant, also opposed the bail application. He submitted that the entire portfolio of shares and securities, which were originally lying in the HDFC Dmat account, belonged to the complainant or her deceased family members, and not the applicant. The applicant, according to the complainant, was merely a caretaker who was allowed limited access for medical and household help. He is neither a blood relative nor had any legal claim over the complainant's assets. It is further submitted that no gift deed or legally acceptable documentation has been placed on record by the applicant to demonstrate that the complainant gifted her shares, securities, or bank deposits to him or his wife.

16. It was also argued that the applicant acted in violation of the NSDL Circular dated 8th April 2022, which mandates that communication related to Dmat accounts must be sent to the first holder and in cases of joint holders being family members, distinct mobile numbers and email IDs must be provided for each holder. Contrary to these norms, the applicant deliberately inserted his own mobile number and email ID in place of the complainant's on the forms for the joint Dmat account and the Axis Bank savings account. Though the correct mobile number and email ID of the complainant were initially entered at the time of opening the accounts, the applicant subsequently changed them without the complainant's knowledge. This, it is alleged, was done with the intention to prevent the complainant from receiving transaction alerts or information regarding the funds being siphoned off by the applicant from the joint account to his personal accounts. It was further submitted that the complainant never gave her consent to sell the shares or to transfer the money, and that the depository instruction slips (DIS) indicate that the shares were supposed to be transferred from the HDFC account back into an account of the complainant herself, not into the joint Axis account.

17. It is further submitted that an amount of approximately Rs.7.40 crore is still untraceable, and only the applicant knows the details and whereabouts of the said amount. The investigation in this respect is still ongoing, and a further supplementary charge-sheet is yet to be filed, particularly concerning the newly added offences under Sections 467 and 468 of the Indian Penal Code, which deal with forgery of valuable security and forgery for the purpose of cheating.

18. In support of his submissions, the learned Senior Advocate for the complainant has placed reliance on a series of judicial pronouncements including: *Securities Appellate Tribunal* *judgments in Appeal No.204 of 2020 and Appeal No.784 of 2021, Privy Council decision* reported in 32 Calcutta Weekly Notes 817*, Deepak Yadav v. State of U.P., Criminal Appeal No.861 of 2021,* dated 20 May 2022, *Indranarayan v. Roop Narayan & Anr.,* reported in (1971) 2 SCC 438*, Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.,* reported in (2010) 14 SCC 496*, Virupakshappa Gouda & Anr. v. State of Karnataka & Anr.,* reported in (2017) 5 SCC 406*, State of Rajasthan v. Indraj Singh,* reported in 2025 SCC Online SC 518, and Judgment of this Hon'ble Court in *Zarir Pesi Bharucha v. Niloufer Soli Lam,* in Interim Application (L) No.6697 of 2023 in Parsi Suit No.20 of 2022, decided on 11 August 2023.

19. These authorities have been cited to support the argument that when serious allegations involving financial fraud, breach of trust, and manipulation of vulnerable persons are made out, the discretion to grant bail must be exercised with utmost caution.

20. I have carefully considered the submissions advanced by the learned Senior Advocate for the applicant, the learned APP for the State, and the learned Senior Advocate appearing for the complainant. I have also perused the material placed on record, including the charge-sheet and the supplementary statements.

21. The allegations against the applicant are undoubtedly serious, involving alleged misappropriation of funds to the tune of more than Rs.10 crore. The prosecution alleges that the applicant and his wife took undue advantage of the complainant's old age and fraudulently transferred funds and securities from her accounts to their personal accounts.

22. However, on examining the material placed on record, certain important aspects arise, which require serious consideration while deciding the present bail application. It is not in dispute that the complainant is an elderly woman of about 90 years of age. However, from her own statement recorded during investigation, it appears that the applicant had developed a personal bond with the complainant over a period of time. The complainant has stated that after the death of her husband and younger daughter, she was living alone, and the applicant had helped her with day-to-day needs.

23. The applicant, in support of his claim of innocence, has relied upon a registered Will dated 23rd September 2021, which is stated to have been executed by the complainant in his favour. According to the applicant, by way of the said Will, the complainant, of her own volition, bequeathed all her movable and immovable assets to the applicant. A perusal of the Will shows that it is not an unverified or informal document, it has been duly attested by two independent witnesses, and further carries a medical certificate, purportedly issued by a doctor confirming that the complainant was in a sound state of mind at the time of execution.

24. In addition to the Will, the applicant has also relied upon multiple affidavits and supporting documents, which are claimed to have been executed by the complainant. These documents, on the face of it, indicate that the complainant had expressed faith, affection, and trust in the applicant, and had even acknowledged that she voluntarily opened joint savings and Dmat accounts with him. She is also stated to have transferred certain amounts and shares, and appointed the applicant as a nominee or joint holder in the relevant accounts. One such affidavit dated 25th September 2021 records that transfers were made out of free will and volition.

25. It is true that the genuineness and voluntariness of these documents are being challenged by the prosecution and the complainant, and the truth of these assertions can only be established during trial upon recording of evidence. However, at the stage of bail, this Court is not required to conduct a mini-trial or make a final determination on the authenticity of documents. What is relevant is that such documents do exist on record, and prima facie lend support to the defence version that the transactions may not have been entirely fraudulent or deceitful, but may have had an element of voluntariness or consent, whether rightly or wrongly presumed.

26. Moreover, the timing of the complaint and the conduct of the complainant also require to be considered while deciding the question of bail. As per the complainant's own statement recorded during investigation, she has categorically admitted that she had received a text message on her mobile phone on 27th September 2021, informing her about a transfer of amount from her savings bank account. She also received another message on 28th September 2021, stating that the registered mobile number linked to her Axis Bank account had been changed to the number of the applicant. These messages, as per the complainant herself, were received by her in real time.

27. Despite being aware of these events, the complainant did not take any immediate steps to raise a grievance with the bank authorities or lodge a police complaint. It is significant to note that the First Information Report (FIR) was registered nearly two years later, on 29th August 2023. This considerable delay of almost two years, in the absence of any satisfactory explanation, raises a doubt as to whether the complainant had indeed acted under misconception or whether the transactions were known to her and permitted at the relevant time.

28. It is a settled principle of criminal jurisprudence that delay in lodging FIR, especially when there is prior knowledge of the alleged act, is a material factor, which may affect the credibility of the accusation at least for the purpose of bail. Though delay alone is not fatal to prosecution, when combined with existing documents on record which show apparent consent or knowledge, it assumes importance. In the present case, the complainant's own admission of having received SMS alerts regarding both the financial transaction and the change in contact details indicates that she was aware of the developments as early as September 2021, but for reasons best known to her, she chose to wait until August 2023 to initiate criminal proceedings.

29. At this stage, this unexplained delay, coupled with the existence of affidavits and supporting documents in favour of the applicant, casts a doubt over the prosecution version, and further supports the argument that the case is not free from disputed facts, which need to be established during trial. Hence, the delayed lodging of FIR is a relevant factor weighing in favour of the applicant for the limited purpose of deciding this bail application.

30. These facts give rise to mixed questions of fact and law, which will require detailed appreciation of evidence, examination of witnesses including bank officials and attesting witnesses, and analysis of the nature of relationship between the parties. This complexity in the case and the existence of plausible documentary defence weigh in favour of the applicant for the limited purpose of granting bail, especially in light of the settled principle that bail is the rule and jail is the exception.

31. The entire case appears to rest substantially on documentary evidence, much of which is already in custody of the Investigating Agency. There is no material on record to suggest that the applicant, after registration of the FIR, has attempted to influence witnesses or tamper with the evidence. On the contrary, it appears that the applicant responded to notice issued under Section 41-A of the Code of Criminal Procedure and cooperated with the investigation.

32. The applicant has been in custody since 28 June 2024, and charge-sheet has already been filed. The offences in question are triable by the Magistrate and the trial is unlikely to commence in the near future, particularly in view of the nature and volume of documentary evidence involved. The applicant is a permanent resident of Mumbai, has no criminal antecedents, and has a minor daughter dependent on him. The prosecution has failed produce material that the applicant is a flight risk.

33. The apprehension of the prosecution regarding tracing of remaining amount may be addressed by imposing appropriate conditions to ensure the applicant's continued cooperation with the investigating agency. Custodial interrogation, at this stage, does not appear to be necessary.

34. Thus, without expressing any opinion on the merits of the prosecution case or the defence, this Court finds that the nature of dispute between the parties, though it involves serious allegations, is also intertwined with civil and testamentary issues, which adds a layer of complexity requiring trial for proper adjudication. This, in turn, weighs in favour of granting bail, subject to appropriate conditions.

35. In view of the above circumstances, and considering the mandate under Article 21 of the Constitution of India, which guarantees protection of personal liberty, I am of the opinion that a case for grant of regular bail is made out.

36. Hence, the following order is passed:

(i) The applicant is directed to be released on regular bail in connection with Crime Register No.498 of 2023 registered with Chembur Police Station, upon his furnishing cash surety in the amount of Rs.50,000/- (Rupees Fifty Thousand only)

ii) The applicant shall, within four weeks from the date of his release, execute P.R. bond in the amount of Rs.50,000/- (Ruprees Fifth Thousand Only) with one or more sureties in the like amount, to the satisfaction of the learned Trial Court.

(iii) The applicant shall not contact the complainant or any witnesses directly or indirectly, and shall not tamper with the evidence in any manner.

(iv) The applicant shall cooperate with further investigation, if any, and shall remain available as and when called by the Investigating Officer.

37. The bail application is allowed and disposed of.

38. In view of this order, the interim application also stands disposed of.

(AMIT BORKAR, J.)