AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.740 OF 2025

Yogesh Parasmal Jain, and
Himanshu Dinesh Kumar Sen … Applicants
V/s.
The State of Maharashtra … Respondent

Mr. Kamlesh Tiwari for the applicants.
Mrs. Kranti T. Hiwrale, APP for the respondent-State.
Ms. Deepali Patil, PI, Panvel Cyber Cell, Navi Mumbai, is present.

CORAM	:	**AMIT BORKAR, J.**
RESERVED ON	:	**OCTOBER 6, 2025**
PRONOUNCED ON	:	**OCTOBER 7, 2025**

P.C.:

1. By this application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the applicants seek regular bail in connection with Crime Register No. 133 of 2024 registered with Nhava Sheva Police Station for offences punishable under Sections 318(4), 336, 340, and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS), and Section 66(D) of the Information Technology Act, 2000.

2. As per the prosecution, the first informant, Mr. Jayprakash Singh, came in contact with one lady named Emily on a dating application called Tinder. They thereafter started communicating through WhatsApp. The said lady shared a link with the informant to perform certain online tasks, for which he initially received small monetary benefits. Gaining confidence, he continued performing the tasks and, as per instructions, transferred a total amount of Rs. 10,40,212. Later, he realized that he had been cheated and the money had been siphoned off. Hence, he lodged a report at Nhava Sheva Police Station. The said report was registered as C.R. No. 133 of 2024 under Sections 318(4) of the BNS and Section 66(D) of the IT Act. During investigation, Sections 336, 340, and 3(5) of the BNS were subsequently added.

3. The applicants were arrested on 15 October 2024. During the course of investigation, statements of witnesses were recorded which disclosed the role of the applicants. One witness, namely, Saurabh Kumar Meherchand, stated that the applicants introduced themselves to him as proprietors of a firm named Gijjam Trading and Textiles. They persuaded him to open a bank account in the name of the said firm using his own personal documents. It was found that two amounts, Rs. 85,000 and Rs. 3,36,000, which were transferred by the informant, were credited to this account. The applicants thereafter transferred these amounts to other accounts on the same day.

4. The investigation revealed that the applicants had opened several bank accounts in the name of Gijjam Trading. One such account was opened with Yes Bank using the credentials of the said witness, Meherchand. The statement of one Priya Krishna Jangale, an employee of Yes Bank, shows that she personally met the applicants when the account was opened.

5. Learned counsel for the applicants submitted that the prosecution’s case itself shows that the amounts were received in the account of Gijjam Trading. However, as per the statement of Saurabh Kumar, it was he who had provided his PAN and Aadhaar cards for opening the bank account. This shows that the applicants neither misrepresented facts nor signed any document for opening the said account. The account was operated exclusively by Saurabh Kumar. The leave and license agreements for two premises were also signed by Saurabh Kumar and one Kapil, who is related to him. It is further submitted that Saurabh Kumar, who came to Mumbai along with Kapil, failed to disclose to the investigating officer that he himself executed the leave and license agreements. After learning that the police had discovered his role in the opening of the account, he left Mumbai for his native place, which indicates that he is the main culprit.

6. The counsel for the applicants further submitted that the seizure panchnama is doubtful. Though Saurabh Kumar, Kapil, and others were present during the raid, their presence was not recorded in the panchnama. Statements of some witnesses confirm this fact. Hence, according to the applicants, they deserve to be released on bail.

7. On the other hand, the learned APP opposed the application. She submitted that as per the statement of Saurabh Kumar, it was the applicants who met him and persuaded him to open a bank account in the name of Gijjam Trading. During the house search, visiting cards of Gijjam Trading were recovered along with documents belonging to the applicants. Several SIM cards and debit cards of various banks, including those issued in the name of Gijjam Trading by UCO Bank and Yes Bank, were also seized. The applicants received amounts of fraudulent transactions in the said accounts and transferred the funds to other accounts for commission. They also introduced themselves to bank officials under false names, Sudhir Jain and Sandesh Jain, though their real names are Yogesh Jain and Himanshu Jain. Two other co-accused are absconding.

8. The learned APP further relied on the statement of a bank employee who confirmed that the applicants met her for opening the account, claiming that Gijjam Trading was their business concern. Applicant No.1 (Sudhir) instructed her to open the account in the name of Saurabh Kumar. The modus operandi of the applicants was to lure unemployed youth from other states with job promises in Mumbai. They arranged accommodation for such persons at Mira Road and kept them at their shop during verification visits by bank officials. Out of the total cheated amount of Rs. 10,40,212, a sum of Rs. 8,20,000 has been frozen through the National Cyber Crime Reporting Portal. The learned APP submitted that if the applicants are released on bail, there is every likelihood of their tampering with evidence or siphoning off the remaining amount. Hence, she prayed that the bail application be rejected.

9. Having considered the rival submissions and the material on record, the following reasons weigh against granting bail to the applicants.

10. The allegations against the applicants disclose a well-organized and premeditated cyber fraud. The investigation reveals that the applicants, by assuming false identities and representing themselves as proprietors of a non-existent firm, namely Gijjam Trading and Textiles, induced innocent persons to open bank accounts using their personal credentials. These accounts were thereafter used for receiving and diverting fraudulent proceeds. Such conduct shows a high degree of deceit and calculated intent.

11. The material collected by the prosecution, particularly the statements of witnesses and the recovery of incriminating articles during the house search, prima facie establishes the applicants' active participation. Visiting cards, multiple SIM cards, and several debit cards issued in the name of Gijjam Trading have been seized from the applicants' possession. The seizure of such material cannot be brushed aside at this stage. These recoveries corroborate the prosecution version and connect the applicants with the alleged offence.

12. The statement of the bank employee, who personally met the applicants at the time of opening the Yes Bank account, supports the prosecution case that the applicants projected themselves as the owners of Gijjam Trading and directed the bank to open the account in the name of the witness Saurabh Kumar. Such evidence indicates that the applicants were not merely passive participants but were the primary actors behind the fraudulent setup.

13. The modus operandi adopted by the applicants, as revealed during investigation, is sophisticated and involves the use of multiple accounts, false identities, and electronic communication platforms. The applicants allegedly lured unemployed youth from other states by promising employment in Mumbai, used their documents for opening bank accounts, and later used these accounts for the purpose of cheating. This shows a continuing pattern of conduct and the possibility of similar offences being committed if released.

14. A substantial portion of the defrauded amount, about Rs. 8,20,000, has been frozen through the cyber portal. However, a considerable amount is yet to be traced. The investigation is still in progress to ascertain the flow of funds, identify other accounts used for layering the proceeds, and apprehend two other accused who are absconding. Grant of bail at this stage is likely to hamper the investigation and may enable the applicants to destroy or conceal evidence.

15. The submission of the applicants that the witness Saurabh Kumar is the main culprit and that they have been falsely implicated does not appear convincing at this stage of the proceedings. The case diary and the statements recorded under Section 180 of the BNSS reveal that Saurabh Kumar was a young and unemployed person who was lured by the applicants under the pretext of providing employment in Mumbai. The applicants, posing as businessmen, induced him to part with his personal documents such as PAN Card and Aadhaar Card, assuring him that the same would be used for opening a business account for their firm, Gijjam Trading.

16. The evidence on record, particularly the statement of the bank employee, clearly shows that the applicants personally met her at the time of opening the account and represented themselves as the proprietors of Gijjam Trading. Applicant No.1 specifically instructed the bank officer to open the account in the name of Saurabh Kumar. This shows that Saurabh Kumar did not act independently or with criminal intent of his own. His conduct appears to be that of a person acting under the influence and instructions of the applicants.

17. Further, the seizure of visiting cards, multiple SIM cards, and debit cards of various banks, all in the name of Gijjam Trading, from the possession of the applicants, corroborates their direct involvement in the fraudulent operation. There is no material on record to suggest that Saurabh Kumar had control or custody over these incriminating items. The funds transferred to the said account were immediately diverted to other accounts under the control of the applicants, which reinforces their active role in the fraud.

18. At this stage, the investigation reveals that Saurabh Kumar was used as a tool or front to execute the fraudulent acts. His role, if any, appears subordinate and limited to providing personal credentials under inducement. Whether he had knowledge of the larger conspiracy or derived any monetary benefit is a matter that will be determined after the trial upon full appreciation of evidence.

19. The applicants, on the other hand, appear to be the principal actors who designed and executed the entire operation. They created a fictitious business entity, misrepresented themselves before the bank, and used multiple accounts to circulate and conceal the proceeds of crime. Their role is not of a bystander but of active participants who orchestrated the offence.

20. In these circumstances, the Court finds that the argument seeking to shift the blame upon Saurabh Kumar is an attempt to divert attention from the applicants' own conduct. Prima facie, the material collected by the investigating agency establishes that the applicants played the central and controlling role in the commission of the offence. Whether Saurabh Kumar shared criminal intent or merely acted under their influence will be determined at trial. For the present, the evidence available gives rise to a strong presumption of the applicants' direct and deliberate participation in the offence.

21. The seriousness of the offence, its organized nature, the manner in which public trust in online transactions has been misused, and the possibility of tampering with evidence or influencing witnesses weigh heavily against the grant of bail. Economic offences involving deception and misuse of digital platforms affect not only individuals but also public confidence in the financial system.

22. Considering the gravity of the allegations, the nature of evidence collected, and the stage of investigation, I am of the view that this is not a fit case to exercise discretion in favour of the applicants.

23. Hence, the bail application stands rejected.

(AMIT BORKAR, J.)