

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 831 OF 2025

Ajay Ajit Peter Kerkar .. Applicant

Versus

The State Of Maharashtra .. Respondent

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- Mr. Dinesh Tiwari a/w Mr. Pulkeshi Gaikwad, Mr. Anish Sharma and Adv. Parveen Bano, Advocates for Applicant.
- Mr. Sukanta A. Karmakar, APP for State.
- API – Sameer Wagh, EOW.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 07, 2025

P. C.:

1. Heard Mr. Tiwari, learned Advocate for Applicant and Mr. Karmakar, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 98 of 2021 registered with Sahar Police Station under Sections 406, 420, 465, 467, 468, 471 & 120-B of the Indian Penal Code, 1860.

3. Applicant is arrayed as accused along with several other co-accused persons registered by Economic Offence Wing, Mumbai. Applicant is in incarceration since 10th January, 2024. However, it is admitted fact that Applicant was incarcerated since November, 2020 in several other crimes registered against the Applicant which were

lodged by Economic Offence Wing. The Applicant is the director of Cox & King's Ltd. (short "CKL").

4. With the assistance of learned Advocate appearing for the Applicant I have gone through the record of the case. It is seen from the record that Applicant was indicted and incarcerated in more than 8 different crimes registered by several banks and financial institutions including public sector undertaking against Applicant in which Applicant has secured bail. In fact it is on record that Supreme Court has also granted bail to the Applicant in some of the cases.

5. Insofar as the present case is concerned, complainant is one Mr. Yazdeen Jummy Mistry, Head of Corporate Finance of a private entity / firm called M/s Kurlon Enterprises. He has lodged complaint on behalf of Kurlon Enterprises on 23.11.2021 against CKL, Urshila Kerkar, present Applicant, Pesi Patel and Bricks works rating and other unknown accused persons in connection with default and non repayment of an inter-corporate loan amount of Rs.20 crores which was advanced by Kurlon Enterprises to CKL in two tranches of Rs.10 crores each. This loan was given to CKL between March, 2019 and August, 2019. It is seen that there was a default on the part of the CKL to service the said inter-corporate deposit after the first five installments. Record also shows that said inter-corporate deposit was substantially secured by a deed of guarantee executed by some of the

directors and executors which was given to Kurlon Enterprises. The Applicant has been shown to have arrested on 10.01.2024 in the present crime while he was in custody and incarceration in other crimes in which admittedly he has been released on bail. Without delineating into the details of the other Court this Court has the occasion to deal with the bail application of Chief Finance Officer and the Special Auditor of CKL while determining their Bail Application Nos.4872 of 2024 and 4826 of 2024 by order dated 25th February, 2025, by which the Chief Finance Officer and the Special Auditor of CKL have been granted bail by this Court.

6. In the present case it is seen that complainant alleged that when CKL approached the complainant it had placed on record its balancesheet alongwith a certification of A1+ rating of CKL issued by rating agency which was *prima facie* looking healthy and based upon which the complainant advanced the inter-corporate short term loan to CKL. *Prima facie* even if CKL had presented and relied upon its balancesheet and certification for procuring the loan amount from the complainant, it was the duty of the complainant entity to undertake appropriate revisions.

7. It is seen that it the principal case of the complainant that there is default in repayment of the loan amount. In any event, the case of the complainant is for return of its money for which civil action

can be invoked as it qualifies as a commercial dispute between the parties based upon the documents executed between the parties namely reveals deed of guarantee and inter-corporate deposit which is *prima facie* seen from the record.

8. Considering the incarceration of the Applicant not only in the present case but in continuity with his long incarceration since 2020 and the order of the Hon'ble Supreme Court dated 29.08.2024 granting bail to the Applicant as also the decision taken by this Court while granting bail to the Chief Finance Officer and the Special Auditor of the CKL in the order dated 25.02.2025, I am of the opinion that Applicant has made out a case for grant of bail.

9. In view of the above observations, 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/- (Rs. Twenty Five Thousand Only) with one or two sureties in the like amount;
- (ii)** Applicant shall be released forthwith on provisional cash bail of Rs.25,000/- (Rs. Twenty Five Thousand Only) and is permitted to furnish sureties as directed within a period of 4 weeks after his release from prison;

- (iii)** Applicant shall report to the Investigating Officer of EOW once every month on the third Saturday between 10:00 am to 12:00 pm for the first three months and thereafter as and when called;
- (iv)** 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;
- (v)** Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi)** Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vii)** Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (viii)** Any infraction of the above conditions shall entail cancellation of this order.

10. It is clarified that the observations in this order are limited for the purpose of granting Bail and the trial shall proceed

uninfluenced by the present order. The trial shall be adjudicated on its own merits and evidence and determined strictly in accordance with law.

11. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]