Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 855 OF 2025

Deepak Ramesh Shukla .. Applicant (Accused No. 1)

Versus

The Inspector of Police & Anr. .. Respondents

....

- Mr. Sujit Sahoo a/w Ms. Ira Mishra, Advocate for Applicant
- Ms. Savita M. Yadav, APP for Respondents - State
- Mr. Satish Rathod, PI, EOW, Thane

....

CORAM : MILIND N. JADHAV, J.

DATE : MAY 02, 2025

P. C.:

1. Heard Mr. Sahoo, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondents - State.

2. Applicant - accused No. 1 has filed the present Application for regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with C.R. No. 1397/2024 registered with Kasarvadavli Police Station, Dist. Thane for offences punishable under Sections 120-B, 34, 420, 467, 468 and 471 of the Indian Penal Code, 1860 (for short, "**IPC**") and under Section 66(D) of the Information Technology Act, 2000.

3. Case of first informant - complainant is that in May 2022, he was contacted by accused No. 3 - Chetan Khade who was known to him. Said accused No. 3 - Chetan Khade enticed him with a job offer for monthly salary of Rs. 20,000/-. Complainant works in the real estate sector and was in need of a job. For this purpose, accused No. 3 - Chetan Khade and accused No. 2 - Rahul Patwa instructed the Applicant to bring his Aadhar Card, PAN Card, photographs and a signed cheque. Both accused Nos. 2 and 3 took complainant to Kalbadevi, Mumbai and introduced him to present Applicant i.e. accused No. 1 who assisted and facilitated the opening of the Bank account.

4. According to prosecution case in order to open the bank account of complainant, accused No. 2 deposited amount of Rs. 25,000/- from his own bank account into complainant's bank account through his mobile App. Thereafter it is alleged by complainant that accused Nos. 2 and 3 visited complainant's residence in Diva and once again asked him to accompany them to office of Applicant in Kalbadevi, Mumbai. At that time complainant was informed that bank account in Kotak Bank could not be opened due to technical reasons and therefore they persuaded complainant to give his documents for opening a new account in AU Finance Bank in Thane. The officials from AU Finance Bank, Thane along with accused persons visited complainant's house in Diva for verification and once again obtained the documents and on the same day after the account was opened, an amount of Rs. 25,000/-

was transferred by accused No. 2 to the said account of the complainant.

5. After the said account was opened, complainant received certain messages on his mobile phone of substantial amounts being credited to his account and he started receiving intermittent messages on his mobile phone about credit of the said amounts. He immediately informed the accused persons about the same. Apart from 3 persons arraigned as accused in the present crime, there are 3 other absconding accused namely accused No. 4 - Chandrashekhar Gowda, accused No. 5 - Ankit Shukla and accused No. 6 - Kamlesh Mishra. Complainant being concerned visited Kotak Bank and shared the said messages with bank officials who informed complainant that insofar as the bank account is concerned, it was standing in the name of a sole proprietorship firm namely Pramod Corporation having its address at Shop No. 17, 2nd Floor, Dhan Bhavan, Old Hanuman Mandir, 1st Cross Lane, MJ Road, Mumbai - 400 002. Insofar as other details of the account were concerned, it was standing in the name of some third party on the basis of documents belonging to them. It was also intimated that registered mobile numbers were completely different than that belonging to complainant.

6. According to prosecution, accused persons misused complainant's identification documents and fraudulently opened the bank account in his name along with a third party as joint holder and certain transactions were carried out through the said account. Though it is complainant's case that he was defrauded, when the matter was argued before me the prosecution has informed that certain amounts, *inter alia,* relating to transactions from third parties was carried out through the said account but fraud alleged by complainant was restricted to the use of his identification documents for opening of the Bank account only and not with respect to any financial transactions.

7. Question before the Court is what was the role of Applicant in the present case and whether Applicant was a direct or indirect beneficiary of any of the amounts which were transacted through the said account. Insofar as FIR and the material placed in chargesheet is concerned, *prima facie*, it is seen that role of Applicant alleged was to facilitate opening of the bank account since Applicant was working as agent / consultant having his own consultancy business in Kalbadaevi area for facilitating opening of accounts and was also doing brokerage business. Save and except the fact that Applicant - accused No. 1 had accompanied the complainant while opening of the bank account on one occasion, there is no other incriminating material placed on record to show that Applicant was involved in any fraudulent activities with regard to receipt of amounts in the said bank account.

8. Though it is the case of prosecution as emanating from the chargesheet that substantial amount of Rs. 380 crore was financed through the said account, insofar as the indictment of Applicant is concerned the case of prosecution against him is that he aided and assisted opening of the said bank account on the basis of KYC documents belonging to complainant. Complainant has not complained about any loss of monies from the said account. The case of the prosecution to the extent which is stated in the chargesheet is that accused persons i.e. accused Nos. 1 to 3 fraudulently obtained Aadhar card, PAN Card and other identification documents for unauthorized use. It is the complainant's own case appearing in his FIR that accused No. 3 is the person who knew the complainant had offered and lured him with the job offer and it was accused No. 2 who on both occasions transferred amount of Rs. 25,000/- in the Bank account in order to gain confidence of complainant. The only restricted role ascribed and attributed to present Applicant is that he was present at all times i.e. on both occasions when the bank account was opened.

9. Though indictment of Applicant is under the provisions of Section 420 of IPC, there is no *prima facie* inducement of any kind at the instance of Applicant to complainant neither it is prosecution case that complainant is the mastermind of the fraud alleged by prosecution. The offences for which Applicant is made liable are offences which are triable by a Magistrate. Applicant has already suffered more than 6 months incarceration in prison having been arrested on 23.09.2024. In my opinion in view of the above *prima facie* observations borne out of prosecution record and emanating from chargesheet and version of complainant in FIR, further custody of Applicant is not required in the present case. Needless to state that Applicant shall cooperate with investigation as and when called for by Investigating Officer (IO) in the present case and attend the trial. In view of my above *prima facie* observations, I am inclined to release the Applicant on bail. Hence, 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/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) 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;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant 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 his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

10. 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.

11. Bail Application is allowed and disposed.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR
Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2025.05.02 20:41:00 +0530