Ashish

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.899 OF 2025

Amit Devchand Shah … Applicant
V/s.
The State of Maharashtra … Respondent

Ms. Anita D. Marbhal for the applicant.
Mrs. Megha S. Bajoria, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 21, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), seeking regular bail. The application arises from Crime Register No. 773 of 2022, registered with MRA Marg Police Station, Mumbai. The offences alleged against the applicant are punishable under Sections 408, 418, 420, 465, 467, 471, 477, 120-B and 34 of the Indian Penal Code, 1860 ("IPC").

2. The prosecution case, in brief, is that the first informant, a resident of Malad East, Mumbai, is carrying on his ancestral business of International Shipping and Clearing Agency from Bellard Estate, Mumbai. During the audit of the company, it was noticed that the profit had abnormally reduced to the tune of about Rs.1 to 1.5 crore. On 3rd October 2022, a report of this suspected financial irregularity was lodged with the police station.

3. It is alleged that after the demise of their father, the informant and his younger brother were jointly managing the work of customs clearance at Sahara Cargo Complex, Andheri, Mumbai and at Jawaharlal Nehru Port Trust (JNPT), Uran. The company was making cheque payments at JNPT and online payments to Sahara Cargo. For its accounts, the company was engaging the services of M/s. Parikh & Co., who looked after the audit. One Mr. Meet Amit Shah was appointed as the internal accountant of the company, assisted by Ms. Anjali Pandey and Mr. Amit Jadhav. The informant-company, being a member of the Brihanmumbai Customs Broker Association, was authorized to make payments through cheques. For that purpose, Mr. Shah was entrusted with duly signed cheques drawn on South Indian Bank, each cheque having a limit of Rs.50,000/-, to be used whenever necessary for business transactions.

4. The turnover of the company was in the range of Rs.10 to 12 crore annually, and it used to earn a profit of about Rs.1 to 1.5 crore. In the year 2022, however, the company noticed that its profits had declined drastically. On verification of the books of accounts, it was revealed that certain cheques were transacted in the name of "Ameya Logistic," which appeared similar to the genuine company "Ameya Logistic Pvt. Ltd.," but was actually a bogus entity. Likewise, payments were routed to other such fictitious concerns. One such account was opened in the name of "MSA Global Logistics," deceptively resembling "MSA Global Logistics Pvt. Ltd.," a genuine company with whom the informant was regularly transacting.

5. Upon further inquiry, it was discovered that cheques were deposited in accounts maintained with HDFC Bank, IDFC First Bank and Axis Bank. When the informant visited the banks and checked the particulars of those accounts, it was found that the registered address and e-mail ID of the account holder corresponded to those of the said Meet Shah. On completion of audit, it surfaced that three bogus entities had been created and their bank accounts were used to siphon off funds. Cheques drawn on the informant-company's account with South Indian Bank were deposited into these accounts of bogus companies, leading to misappropriation of around Rs.2.25 crore.

6. The learned Advocate for the applicant submitted that the applicant's name is not mentioned in the First Information Report. The applicant was arrested on 6th October, 2022 and has remained behind bars for more than two and a half years. It was urged that a co-accused, namely Chintan, who is alleged to have received an amount of Rs.60 lakhs from Accused No.1, has already been granted bail by the learned Sessions Court, and therefore, the applicant is entitled to bail on the ground of parity. It was further submitted that the charge-sheet in the case has already been filed and the investigation is complete. The shops and showrooms connected with the business of electric bikes have been seized by the police, and even the bank accounts of the applicant stand frozen. The charge is yet to be framed and the prosecution has cited as many as 66 witnesses, which shows that the trial will take a long time to conclude. The applicant is 57 years of age and is suffering from serious medical issues, including blockage of the coronary artery. On these grounds, it is submitted that the applicant deserves to be released on regular bail. The learned Advocate also submitted that the entire crime amount was first deposited into the account of Accused No.1, and only thereafter a part of it was transferred into the account of the present applicant. According to him, nearly 80% of the alleged misappropriated amount has already been recovered, and hence, continued detention of the applicant is unwarranted.

7. Per contra, the learned APP for the State opposed the application. She contended that the informant had never directly transferred money from his company's account with South Indian Bank to the accused. However, on investigation, it was revealed that as many as 350 cheques were diverted from the informant's South Indian Bank account into IDFC First Bank. Thereafter, Accused No.1 prepared false and bogus documents and opened current accounts in the names of five fictitious companies. Into these accounts the siphoned amounts were deposited, and from there the amounts ultimately found their way into the account of the present applicant. It is further submitted that the applicant himself was working as an Accountant, had thorough knowledge of the financial affairs of the informant-company, and was entrusted with the signed cheques at the relevant time. Misusing this position, the applicant, in collusion with Accused No.1, pretended to establish five non-existent companies and diverted huge amounts into their accounts.

8. The learned APP further submitted that the crime proceeds were deposited in the applicant's bank accounts with Axis Bank, and from there, withdrawals were made by Accused No.1. It has also come on record that the applicant's wife received an amount of Rs.7,00,000/- and two gold coins, which were purchased from the misappropriated money. All the relevant bank accounts stand in the name of the applicant himself. It is also the case of the prosecution that the applicant and Accused No.1 were residing together in the same residence, which shows their close association. The prosecution case is that Accused No.1 is the main culprit who created forged accounts and siphoned off about Rs.2.5 crores. Out of this, a sum of Rs.82,50,000/- was transferred into the account of Accused No.1, and another amount of Rs.5,00,000/- was received by Shah Transport. During the investigation, the authorities have managed to freeze Rs.51,29,000/- in different bank accounts. Thus, about Rs.36,21,000/- is still unrecovered. The panchnama of seizure also shows that the gold coins recovered from the wife of the applicant were purchased out of the siphoned funds.

9. The learned APP relied upon the report of the Chief Medical Officer, Mumbai Central Prison, Mumbai. The said report shows that the applicant has been referred multiple times to Sir J.J. Hospital in the past, with the last referral being on 21st March, 2025. The latest medical report dated 24th March, 2025 indicates that the health condition of the applicant is presently good and stable with the help of medication. It is further pointed out that as per the charge-sheet, further investigation is in progress with regard to the business dealings of the informant, and the role of the applicant in assisting Accused No.1 in the commission of the offences is under scrutiny. According to the prosecution, the applicant is a direct beneficiary of the illegal transactions to the extent of at least Rs.30,00,000/-, which amount is yet to be recovered. On these grounds, the learned APP prayed that the bail application be rejected.

10. I have considered the submissions advanced on behalf of the applicant and the prosecution, and perused the material placed on record.

11. It is an admitted position that the applicant was arrested on 6th October, 2022 and has been in custody for more than two and a half years. The charge-sheet has already been filed and the investigation is substantially complete. The charge is yet to be framed and the prosecution has cited as many as 66 witnesses, which clearly indicates that the trial will take considerable time to conclude. Continued detention of the applicant, in such circumstances, would amount to prolonged incarceration without trial.

12. The learned Advocate for the applicant has rightly pointed out that co-accused Chintan, who is alleged to have received a larger amount of Rs.60 lakhs from Accused No.1, has already been granted bail by the Sessions Court. On the ground of parity, the applicant is also entitled to consideration on similar lines.

13. As regards the allegations, the prosecution has attributed the principal role of creating forged accounts and siphoning off the funds to Accused No.1. The case of the prosecution against the applicant is that he was a beneficiary of the fraudulent transactions and that an amount of about Rs.30 lakhs was received in his accounts. It is not the case of the prosecution that the applicant himself forged the documents or was the mastermind of the fraud. Further, it is brought on record that nearly 80% of the siphoned amount has already been recovered or frozen by the investigating agency. What remains unrecovered is a balance amount of about Rs.36,21,000/-. Thus, the recovery aspect does not weigh heavily against the applicant.

14. The applicant is 57 years old and is suffering from coronary artery blockage. Though the latest medical report of 24th March, 2025 records that his condition is stable on medication, it cannot be ignored that long detention may aggravate his health issues. At the same time, with suitable conditions, the concerns of the prosecution regarding tampering with evidence and recovery of balance amount can be taken care of.

15. In view of the above factors, namely, long period of custody, completion of investigation, parity with co-accused, substantial recovery of the amount, and the applicant's medical condition, I am of the opinion that this is a fit case where the applicant can be released on bail subject to stringent conditions.

(i) The application is allowed.

(ii) The applicant is directed to be released on bail in connection with Crime Register No. 773 of 2022 registered with MRA Marg Police Station for offences punishable under Sections 408, 418, 420, 465, 467, 471, 477, 120-B, and 34 of the IPC, on his furnishing a personal bond of Rs.1,00,000/-

(Rupees One Lakh only) with two solvent sureties of like amount each.

(iii) The applicant shall not leave the jurisdiction of Greater Mumbai without prior permission of the Trial Court.

(iv) The applicant shall surrender his passport, if not already surrendered, before the Trial Court within one week from the date of release.

(v) The applicant shall attend the Trial Court on every date of hearing unless specifically exempted.

(vi) The applicant shall not tamper with the prosecution evidence or attempt to influence any witness in any manner.

(vii) The applicant shall report to the concerned Police Station once every month, on the first Saturday between 10.00 a.m. and 12.00 noon, until framing of charge.

(viii) Breach of any of the above conditions shall entail cancellation of bail.

16. Accordingly, the bail application stands disposed of.

(AMIT BORKAR, J.)