

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1182 OF 2025

Manoj Bhaurao Lokhande

.. Applicant

Versus

State Of Maharashtra

.. Respondent

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- Ms. Sonal V. Parab a/w Mr. Jairaj D. Sawant and Ms. Esha V. Rane, Advocates i/by Rajeev Sawant and Associates, Advocates for Applicant.
- Ms. Shilpa K. Gajare-Dhumal, APP for State.
- API – Mahendra Puri, Sakinaka Police Station, present.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 07, 2025

P. C.:

1. Heard Ms. Parab, learned Advocate for Applicant and Ms. Gajare-Dhumal, learned APP for State.

2. This is an Application for Regular Bail in connection with C.R. No.534 of 2023 registered with Sakinaka Police Station for offences under Sections 420, 406, 408, 465, 468 and 471 read with 34 of the Indian Penal Code, 1860. Applicant is incarcerated since 21.03.2024 i.e. for 1 year 1 month and 17 days pending trial.

3. Briefly stated first informant is the director of E-Clinical Works, Chandivali, Mumbai (for short 'Company'). Applicant was working in the company as a head of the department of payroll for the

past 8 years prior to filing of the FIR. Prosecution case is that between August, 2021 and February, 2023 Applicant committed a fraud by inserting false salary head bills and credited a sum amounting to Rs.4,95,43,777/- into his personal Kotak Mahindra Bank account. This was because Applicant was responsible for disbursement of salary to the employees of the company and he took advantage of this responsibility in siphoning off the aforesaid amount by putting his bank account number against false entries of the employees and credited the amount into his personal account over a period of more than 1 and ½ years. Record shows that internal enquiry was conducted and Applicant was asked to return back the said amount to the complainant. Since he did not return back the said amount FIR was filed on 15.05.2023. Investigation is completed and chargesheet has been filed. Applicant is in incarceration for the past for 1 year 1 month and 17 days. He has been released on interim bail to provide care and support to his ailing minor sons intermittently by the Trial Court.

4. Prosecution case shows that aforesaid amount received by Applicant surreptitiously was further transferred to the bank account of his wife and other persons as also Applicant invested it in various companies, shares and securities and has eventually lost the same.

5. Ms. Gajare-Dhumal, learned APP appearing in the matter has vehemently objected to grant of bail, *inter alia*, stating that

Applicant has committed a fraud with the company by misusing his responsibility and position over a period of more than 1 and ½ years and despite being calling upon him to return back the said amount he has refused to do so. She would submit that there is substantial *prima facie* material on record to show complicity of Applicant in committing the premeditated fraud sustaining over a period of more than 1 and ½ years to the detriment of the company which employed him and which put trust in him. Hence it is urged that Bail Application be rejected.

6. Ms. Parab, learned Advocate for Applicant has taken me through the record of the case. She would submit that Applicant is alleged to have committed a crime, but there are several precursor issues and incidents which would be required to be considered *prima facie* to substantiate the alleged charge of committing fraud over a period of more than 1 and ½ years for the Applicant. She would submit that owing severe mental and financial harassment by the Company because of the Applicant raising concerns about non compliance of statutory obligations such as ESI, gratuity, labour laws, bonus returns and maternity benefits, Applicant filed his resignation on 14.06.2021 and a new recruit in place of Applicant joined the company in the month of September, 2021 but the actual hand over of charge was made by the Applicant with effect from February, 2023. She would submit that during an official meeting on 21.03.2023

Applicant was verbally abused, threatened and falsely accused of committing fraud by the senior management of the Company pursuant to which he stopped attending to work. She would submit that Company thereafter sent 3 emails to the Applicant assuring him of full and final settlement towards his dues. She would submit that on 03.04.2023 i.e. prior to registration of FIR Applicant was issued summons by the prosecution officer directing him to remain present for enquiry. She would submit that on 17.05.2023 Applicant received notice under Section 41(1)(a) of the Cr.P.C. from the prosecution officer in connection with FIR No.534 of 2023 dated 14.06.2023 registered by the company in respect of present offence. She would submit that Applicant was arrested on 21.03.2024 that is almost 1 year after filing of the FIR. She would submit that chargesheet has been filed, investigation has been completed and therefore custody of Applicant is no longer required since charges against Applicant can only be proved at the trial.

7. Apart from aforesaid issued on merits Ms. Parab, learned Advocate for Applicant would persuade the Court to consider grant of bail to Applicant on the ground that both minor sons of Applicant aged 5 years and 3 years old are specially abled children. His elder son is suffering from developmental disorder who require extensive various treatment in respect of communication socialization and attention

issues including occupational therapy and speech language therapy. His younger son aged 3 years old is also showing symptoms of development disorder as opined by Dr. Varun Agarwal in his detailed Medical Report. She would submit that Court may be pleased to consider the detailed medical papers of both children of Applicant appended at page No.100 onwards of Application and the compilation would *prima facie* show that the elder son of Applicant born on 17.06.2020 has been undergoing occupational therapy for developmental and functional skills right since his birth and even according to medical papers appended it is seen that he requires adequate care and support. Perusal of medical papers at page Nos.10 to 12 of the compilation reveal that younger son of Applicant is also suffering from medical ailment. She would submit that since Applicant is incarcerated in prison, wife of Applicant who is presently providing care and support is unable to meet ends with and therefore would submit that Applicant be released on bail. She would submit that if Applicant is released on bail he would be in a position undertake a job to meet financial needs and medical means of his family members and more specifically his elder son.

8. She would submit that Applicant has already suffered incarceration for 1 year 1 month and 17 days and he is having deep roots in the society hence there is no apprehension that he will

abscond from justice and even otherwise considering punishment prescribed in the event of his conviction being that of a maximum 7 years imprisonment he would move to the Court to release on bail in the interest of justice.

9. I have heard learned Advocates at the bar and with their able assistance perused the record of the case.

10. Case of Applicant before me for bail as argued is based on two issues, *inter alia*, pertaining to merits of the matter and medical ground. According to the prosecution the period of indiscretion and default / fraud on the part of Applicant is between August, 2021 and February, 2023 during which period Applicant showed fictitious entries against salary being paid to employees of company and surreptitiously siphoned off substantial amounts to one particular account belonging to him. What is intriguing is the fact that first informant is a company which is subject to audit. In between August, 2021 and February, 2023 Applicant is alleged to have committed fraud and it is surprising that the same was not flagged by the auditors of the company at the end of the financial year. If once again Applicant during the entire duration of the next financial year committed the fraud it is surprising that once again the same had gone unnoticed. It is seen that in March, 2023 the company took further steps to ascertain the fraud.

11. Issue on facts argued by both the learned Advocates has been considered. However, what impels me to consider Bail Application of Applicant is the fact that the 5 year old son of the Applicant is diagnosed with developmental disorder and he requires continuous parental care and medical treatment. In today's time parental care can be provided by parents which would sustain emotional and physical development of a child but insofar medical care and attention is required, costs are indispensable as medical care in such issue is expensive. Applicant is a primary care giver and financial provider being a father of the child and if he is enlarged on bail he can take care of medical treatment and overall well being of his minor son. Equally his 3 year old son is also in a similar crisis and orientation.

12. Though prosecution may argue that Applicant otherwise may not be entitled to bail considering the massive fraud played by him and therefore Court should be cautious to consider any other alternative ground for release on bail. However, Court while considering bail Application has to consider all possible grounds which are placed before the Court requiring Court to utilize its discretion in granting bail to an accused persons before the court. In the present case, if the present Application is rejected and Applicant is continued to be kept behind bars the ignominy of his two minor son suffering

from developmental disorder and require special therapies will undoubtedly suffer. Appended to the Application is the certificate issued by doctor / consultant in developmental pediatrics dated 05.03.2025 wherein it has been stated that minor son of Applicant was diagnosed with developmental disorder at 3 years 3 months age and was advised to start with occupational therapy and speech and language therapy and was undergoing the same with a prescribed home program which are required to be continued to help the child reach his potential with special education sessions are also needed to help parents train the child for readiness and schooling as his son is now 5 years old. All this and regular consultation with doctors and hospitalization would require Applicant to provide care and support being a primary care giver in the present case involving substantial costs in today's times.

13. There is another certificate appended to the Application at page No.110 by Dr. Pradnya Lote, consulting pediatric occupational therapist which has stated that son of Applicant has demonstrated significant progress in areas such as fine and gross motor skills, sensory processing and daily living activities and this was achieved with the active and supportive involvement of both the parents and their commitment to implementing therapeutic strategies at home which is integral to the success of the therapy program. Said doctor

has also recommended that son continues to receive parental support involvement will be crucial in supporting Applicant's son's ongoing progress. After going through said certificates and the opinion written by concerned doctor relating to 5 years old minor son of Applicant.

14. Similar is the case with his second minor son aged 3 years old. Dr, Varun Agarwal has given a Report which states that the second son is also showing signs of development disorder at the inception stage.

15. I do not have slightest doubt in my mind as to why case of the Applicant cannot be considered for grant of bail on the ground of medical condition of his two minor sons aged 5 years and 3 years old. This is primarily because if the Applicant's further incarceration is continued then there is every possibility that there will be a gap in the treatment which is provided to the minor sons. Court is also conscious of the fact that Applicant is alleged to have been committed a fraud with his Company but when a case for grant of bail is argued before Court, the Court cannot shut its eyes if it sees the issue relating to medical ailment of the sons of Applicant as argued by the learned Advocate for Applicant. For the past 1 year 1 month Applicant is incarcerated, both minor sons have already missed substantial parental love and care of the father which he was providing intermittently.

16. The aforesaid issue regarding medical ailment of the Applicant's family members has been taken into consideration by the trial Court while granting interim bail to the Applicant on 21.06.2024 so as to ensure presence of Applicant with his minor children. Perusal of the orders passed by the trial Court show that the interim bail has been extended intermittently for a period of 1 month till 04.12.2024 after which the Applicant's Application for extension of interim bail was rejected by the trial Court and Applicant was again taken into custody.

17. The Court is not oblivious to the fact that Applicant is alleged to have purported to commit the crime in respect of which FIR is lodged but at interim stage for grant of bail, Court is well within its rights and discretion to consider all facets and submissions which have been made before the Court and to see whether it enables the Applicant to be enlarged on bail. There is also no doubt that wife of Applicant is presently providing medical care and support for both the minor sons but still as delineated herein above while reproducing the opinion of doctors referred to and relied upon by the learned Advocate for Applicant, it is seen that in such a case of both sons requiring special therapies and care by both the parents is an important facet which cannot be ignored by the Court.

18. In view of my above *prima facie* observations, I am of the opinion that Applicant can be enlarged on bail. Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing PR. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.50,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.50,000/- 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 01.00 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.

19. 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.

20. Bail Application is allowed and disposed.

PR. Rajput

[MILIND N. JADHAV, J.]

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