AGK/Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1439 OF 2025

Milind Ramdas Nikam … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Arif Zamirullah Khan with Ms. Shilpa Sharma for the applicant.

Mr. Prasanna P. Malshe, APP for the respondent-State.

Mr. Jagdish More, PSI, Andheri Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2025

P.C.:

1. By the present application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (previously Section 439 of the Cr.P.C., 1973), the applicant is seeking regular bail in connection with Crime Register No.279 of 2023, registered with Andheri Police Station, Mumbai. The applicant is being prosecuted for offences punishable under Sections 465, 467, 468, 471, 420, and 186 read with Section 34 of the Indian Penal Code, 1860, which relate to cheating, forgery, use of forged documents and impersonation.

2. As per the case of the prosecution, the informant is serving as an Assistant Engineer with the Municipal Corporation of Greater

Mumbai (MCGM) since the year 2007. Certain lands bearing CTS Nos.328, 329 (part), and new CTS Nos.329/A and 329/C situated at Village Gundavali were developed, and nine tenements constructed therein were handed over to the MCGM authorities for allotment to Project Affected Persons (PAPs). However, it is alleged that the Developer, Anil Chandulal Shah, instead of handing over the possession of the said rooms to the rightful PAPs, colluded with others and prepared false and fabricated documents by forging signatures of MCGM officials. Using such documents, seven persons were unlawfully given possession of the said rooms. Due to this act, those who had a legal and rightful claim to the flats were deprived of their allotments. The alleged fraudulent transaction is stated to have caused a loss of approximately Rs.4 to 5 crore to the Municipal Corporation. It is further alleged that the present applicant posed himself as an employee of the MCGM and actively participated in handing over possession of the rooms by signing necessary documents, thereby playing a role in facilitating the fraud. On these allegations, the present crime came to be registered.

3. The learned counsel appearing on behalf of the applicant submitted that the applicant has not been named in the First Information Report (FIR). He contended that till date, statements of the actual Project Affected Persons whose flats were allegedly usurped, have not been recorded by the investigating agency. He pointed out that co-accused Satish Singh had misrepresented to prospective purchasers that residential units were available at concessional rates. Based on such representations, funds were directly transferred by the purchasers to the account of co-accused Satish Singh. The Memorandums of Understanding (MoUs) in favour of the purchasers were also executed by said co-accused. It is further submitted that co-accused Anil Shah and Satish Singh Pandey, who had signed confirmation deeds with the said purchasers, have already been exonerated from the charge of forgery. The learned counsel submitted that there is no specific allegation or material on record to show that the applicant received any monetary benefit from the transaction. He also pointed out that investigation has been completed, and the applicant has been in custody since 17th October 2024. In these circumstances, he prays for the grant of regular bail.

4. In support of the bail plea, the learned advocate for the applicant has placed reliance upon certain orders passed by this Court in *Chetan Kisan Patil Vs. State of Maharashtra (Bail Application No.1304 of 2024, decided on 18th June 2025), Dipak P. Mali Vs. State of Maharashtra (Bail Application No.1905 of 2023, decided on 10th April 2024), and Abdul Karim Ladsab Telgi Vs. Central Bureau of Investigation (Bail Application No.3889 of 2010, decided on 11th January 2011)*. He also relied upon the decision of the Supreme Court in *Prabhakar Tewari Vs. State of U.P. & Anr., Criminal Appeal Nos.152–153 of 2020*, wherein it has been held that mere pendency of antecedents, without any conviction, should not by itself operate as a bar for granting bail.

5. On the other hand, the learned APP strongly opposed the bail application and submitted that the applicant had demanded a sum of Rs.8,00,000/- for entering the names of victims in

Annexure II, which is a vital document for allotment of flats to PAPs. It is submitted that the said amount was paid by Vinay Jadhav to the applicant on behalf of Satish Singh. During investigation, Vinay Jadhav has disclosed that from the total amount of Rs.48,85,000/-, he had transferred Rs.47,85,000/- to the applicant, after retaining Rs.1,00,000/- as his own commission. Thus, there exists material showing monetary involvement of the applicant in the said fraudulent transaction, and hence, the learned APP prayed for rejection of the bail application.

6. According to the prosecution, the entire set of official documents of the Municipal Corporation, which are essential for delivery of possession of flats to Project Affected Persons (PAPs), were procured by the present applicant through dubious means and handed over to Vinay Jadhav. It is alleged that Vinay Jadhav, acting on the basis of those documents, facilitated the handing over of the flats to third parties. However, when the true beneficiaries of the PAP flats approached the Corporation and raised objections, it came to light that the said flats were already allotted to other persons.

7. It is only at this stage that Vinay Jadhav realised that the documents provided by the applicant were not genuine, and in fact, had been forged with an intention to mislead and defraud the municipal authorities as well as the PAPs. The prosecution further pointed out that the modus operandi followed by the applicant is not new, and that there are seven other criminal cases of similar nature registered against the applicant, between the years 2016 and 2023, which are still pending.

8. In view of these facts, the prosecution has expressed serious apprehension that if the applicant is released on bail, there is a high likelihood that he may repeat similar types of offences involving manipulation of public records and fraudulent transactions, thereby affecting public interest and undermining the integrity of government processes. Hence, the prosecution strongly opposes grant of bail to the applicant.

9. I have considered the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also gone through the case papers and material placed on record. From the record, it appears that the allegations against the applicant are of serious and organised nature, involving forgery of official documents of the Municipal Corporation, impersonation, and cheating innocent persons in the garb of public authority.

10. As per the case of the prosecution, the present applicant was actively involved in procuring forged and fabricated documents, which were thereafter used to unlawfully hand over possession of Project Affected Persons (PAP) flats to individuals who were not entitled to receive such allotments. The record reveals that these flats were originally meant for persons who had lost their houses due to development projects, and the Municipal Corporation had earmarked the said premises for legitimate rehabilitation purposes. However, on the strength of false documents allegedly procured by the applicant, those flats were handed over to other persons, thereby defeating the entire purpose of the PAP scheme.

11. It is only when the genuine allottees approached the authorities and found their rightful flats already occupied, that the fraud came to light. Such an act has not only caused financial loss to the Municipal Corporation, but also frustrated the rights of genuinely affected persons, who were otherwise entitled to secure housing.

12. The sequence of events, as emerging from the investigation and material placed on record, prima facie indicates that the applicant played a central and crucial role in the commission of the offence. He is not a mere bystander or passive participant, but appears to be the main facilitator who arranged forged documents and channelled them through others to complete the illegal process of possession. The statement of witness Vinay Jadhav that he transferred a substantial sum of Rs.47,85,000/- to the applicant also gives rise to prima facie evidence of monetary gain.

13. The nature of allegations involves systematic and well-planned impersonation, use of forged government records, and cheating of multiple stakeholders including the Municipal Corporation and PAPs. These are not isolated allegations, but form part of an organised fraud, which raises serious concerns about the applicant's conduct and intentions.

14. In such circumstances, the applicant cannot claim bail on the mere ground of parity with co-accused, especially when his role is prima facie more instrumental, deliberate, and central to the conspiracy. Granting bail in such cases, at this stage, may send a wrong message and may even obstruct a fair trial or embolden further misuse of public schemes.

15. More importantly, it is brought on record by the prosecution that there are seven other cases of similar nature pending against the applicant, between 2016 and 2023, which shows a repeated pattern of fraudulent conduct. These pending cases cannot be brushed aside as mere allegations, especially when they pertain to similar economic offences affecting public housing and civic governance. The likelihood of the applicant repeating similar offences, if enlarged on bail, cannot be ruled out.

16. At this stage, while it may be true that co-accused have been granted bail, the role of the applicant appears distinct and more grave, especially in light of allegations that he impersonated a municipal employee, actively procured forged documents, and personally benefited from the illegal transaction, as alleged by the prosecution.

17. Considering the gravity of the offence, the nature of allegations, the applicant's criminal antecedents, and the possibility of tampering with evidence or influencing witnesses, I am not inclined to exercise discretion in favour of the applicant at this stage.

18. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)