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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1900 OF 2025

Khantil Shah @ Khantil Shranikkumar Sanghavi ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. P. K. Sanghrajka with Jairaj D. Sawant i/by Rajeev Sawant and Associates for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

Mr. R. G. Gujar, PSI (Pairavi), Malad Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 17, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime No. 528 of 2023 registered with Malad Police Station for the offences punishable under Sections 420 and 406 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, one Mr. Vikram Vishwanath Fatechand, who claims to be one of the Directors of a private limited company named Zita Solicis Advisory Pvt. Ltd., lodged a complaint against the present applicant. It is stated that the company is engaged in the business of providing visa and legal documentation services. The informant came into contact with the applicant through Advocate Amit Mehta, who was also one of the directors of the said company. The applicant introduced himself as a professional engaged in immigration-related services and further represented that he was an RCIC (Regulated Canadian Immigration Consultant).

3. Believing the applicant's representations to be true, the informant began referring clients of their company to the applicant for immigration work. In fact, the informant also claims to have helped the applicant set up his office at Malad for carrying out his business activities. It is alleged that, from time to time, the informant paid an amount of ₹72 lakhs to the applicant — out of which ₹12 lakhs were paid through NEFT and the remaining ₹60 lakhs in cash. However, despite receipt of such substantial amount, the applicant neither carried out the immigration work as promised nor refunded the amount to the informant. Subsequently, the applicant shut down his Malad office and shifted his operations to Surat.

4. Upon inquiry, the informant learnt through one of the employees that the applicant had started a new office in Surat. When the informant visited Surat, he located the applicant, who then assured the informant that the assigned work would be completed. As a measure of security, the applicant also issued two cheques for ₹12 lakhs and ₹60 lakhs respectively. However, according to the prosecution, these cheques were later dishonoured.

5. Since the applicant failed to either complete the immigration work or refund the amount, the informant approached the police and an FIR came to be registered under Sections 420 and 406 of IPC.

6. The learned advocate appearing for the applicant submitted that the applicant was arrested on 2nd November 2023, and has been in custody since then. It is pointed out that the offence under Section 420 IPC is punishable with imprisonment which may extend up to seven years, and that the applicant has already undergone custody of over 1 year and 8 months. It is further submitted that the charge has not yet been framed, and the trial is not likely to commence in the near future. Relying upon the judgment of the Supreme Court in the case of *V. Senthil Balaji v. State, 2023 SCC OnLine SC 934*, learned counsel submits that delay in trial is a relevant ground for granting bail.

7. It is further argued that, on a prima facie reading of the FIR and the documents on record, it cannot be said that the applicant had fraudulent intention right from inception of the transaction. The applicant was entrusted with immigration-related tasks, which inherently involve discretionary decisions and procedural delays. Therefore, the failure to complete the work in itself, according to the applicant, does not automatically amount to an offence under Section 420 IPC.

8. On the other hand, the learned APP has strongly opposed the bail application. It is contended that the applicant accepted the amount of ₹72 lakhs, and thereafter issued cheques of ₹12 lakhs and ₹60 lakhs, both of which got dishonoured, resulting in separate proceedings under Section 138 of the Negotiable Instruments Act, 1881. It is further submitted that the applicant has three prior cases of similar nature pending against him, which clearly demonstrates a habitual pattern of cheating. Hence, the prosecution contends that all ingredients of Section 420 IPC are prima facie made out, and therefore, the applicant is not entitled to the discretionary relief of bail at this stage.

9. Having given thoughtful consideration to the rival submissions and on perusal of the material placed on record, this Court is of the opinion that continued incarceration of the applicant is not warranted at this stage. The applicant has been in judicial custody for more than 1 year and 8 months, and notably, the charges are yet to be framed. There is nothing on record to suggest that the trial is likely to commence or conclude in the immediate future. Prolonged pre-trial detention, in the absence of any compelling reason or risk of tampering with evidence or influencing witnesses, would amount to punishment before conviction.

10. It is also pertinent to note that the allegations, even if taken at face value, pertain to a commercial transaction where the complainant entrusted the applicant with immigration work and made monetary payments accordingly. The question whether the applicant had dishonest intention at the inception of the transaction is a matter that will be tested during trial, and cannot be conclusively determined at this stage. Though the issuance and dishonour of cheques has been highlighted, appropriate remedy for the same is already being pursued under the Negotiable Instruments Act.

11. As regards the submission about other similar cases registered against the applicant, it is well settled that each case must be examined on its own facts, and mere pendency of other matters does not, by itself, disentitle a person from being released on bail, unless there is material to show that he is likely to abscond or tamper with the course of justice.

12. In view of the above, and considering the settled principles laid down by the Hon'ble Supreme Court in the case of V. Senthil Balaji *(Supra)*, where it is held that delay in trial is a relevant ground for grant of bail, this Court is of the view that a case for granting bail is made out.

13. Hence, the following order is passed.

i) The bail application is allowed;

ii) The applicant Khantil Shah @ Khantil Shranikkumar Sanghaviis directed to be released on regular bail in connection with Crime No.528 of 2023 registered with Malad Police Station for offences punishable under Sections 420 and 406 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

a) The applicant shall report the Malad Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.

b) The applicant shall not tamper with the evidence or attempt to influence any witness.

c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

4. It is made clear that the observations made herein are only for the purpose of deciding this bail application and the trial Court shall decide the case independently and uninfluenced by any of these observations.

5. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)