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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2840 OF 2025

Ashlesha Bala Krishnan … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Aabad Ponda, Senior Advocate with Ranjeet Sangle, Nehal Dhruv and Parag Sutar for the applicant.

Manvendra K., Amruta Thakur, Kedar Patil, Divya Raut, Pratik Tare and Jitesh Mundhwa i/by Sakshi Kadam for the intervenor/org. complainant.

Ms. Supriya I. Kak, APP for the State.

Mr. Manoj N. Kudmate, PSI, and Mr. Sanjay Kumbhar, PSI, Chembur Police Station are present.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2025

P.C.:

1. By the present application, the applicant seeks regular bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No.498 of 2023 registered with Chembur Police Station, Mumbai. The said crime has been registered for offences punishable under Sections 406 (criminal breach of trust), 420 (cheating), 467 and 468 (forgery of valuable security and forgery for the purpose of cheating), read with Section 34 of the Indian Penal Code, 1860, which deals with acts done by several persons in furtherance of common intention.

2. As per the prosecution case, the informant is an elderly woman, and the applicant along with the co-accused (her husband), under the pretext of financial management and assistance, allegedly misused the trust reposed by the informant. The prosecution alleges that the accused persons induced the complainant to sign various documents, without fully disclosing the nature of those documents, by taking advantage of her advanced age. Based on those documents, a new DEMAT account was opened with Axis Securities Limited, wherein, although the complainant was assured she would be the sole holder, the co-accused (applicant's husband) was allegedly added as a joint holder, and the applicant was made nominee.

3. Once this new DEMAT account was operational, it is alleged that shares belonging to the complainant and her deceased husband, which were lying in their HDFC DEMAT account, were transferred into the newly opened Axis DEMAT account. Further, it is alleged that the accused persons manipulated the registered mobile number and email ID in the Axis Bank savings account linked to the DEMAT account, such that all alerts and transactional messages were received by the co-accused, and not by the complainant. This prevented the complainant from getting any real-time information regarding the transactions in her account.

4. Despite the complainant's repeated requests for updates regarding her investments and finances, it is alleged that the accused gave evasive replies, and that it was only upon the intervention of the complainant's daughter and son-in-law that the entire situation came to light. It is further alleged that the co-accused had unauthorisedly closed a fixed deposit of Rs.2,00,00,000/- lying in the HDFC account of the complainant's late husband, and transferred the amount to an account jointly held by the applicant and her husband in Indian Bank. In addition to this, the shares were also sold, and the proceeds from the sale of shares, dividends and interest, amounting to Rs.8,01,31,000/-, were allegedly transferred and misappropriated by routing the funds through various accounts, including those held by the applicant and her co-accused husband in Allahabad Bank, Indian Bank, and Axis Bank. These acts ultimately led to the registration of the present FIR.

5. Learned Senior Advocate appearing for the applicant submitted that the co-accused (Accused No.1), who is the applicant's husband, has already been granted bail by this Court in Criminal Bail Application No.681 of 2025, by an order dated 8th July 2025. It was urged that the role attributed to the present applicant is less serious or secondary in comparison to that of her husband. The main financial and technical dealings were allegedly handled by Accused No.1, and therefore, the applicant prays for parity in the matter of bail, as she stands on a similar or lesser footing.

6. Per contra, the learned APP opposed the bail application and submitted that the role played by the applicant is distinct and independent from that of Accused No.1. It was contended that the applicant was not a passive participant, but was actively involved in the transactions. Therefore, according to the State, the applicant does not deserve to be released on the ground of parity, and her individual role must be independently considered.

7. Learned Advocate appearing for the complainant also strongly opposed the bail application. He submitted that the applicant was not just a nominee, but also a joint account holder in several bank and DEMAT accounts. It was alleged that the entire scheme of financial diversion could not have been executed without the active cooperation and knowledge of the applicant. It was specifically pointed out that an amount of Rs.55,50,000/- was directly transferred from the said joint account into the personal bank account of the applicant. Furthermore, it was submitted that after registration of the crime, the applicant was not traceable for a considerable period, and was eventually arrested, thereby indicating conscious evasion. On these grounds, the learned Advocate for the complainant prayed that the bail application be rejected.

8. I have carefully considered the rival submissions advanced on behalf of the applicant, the learned APP for the State, and the learned Advocate for the complainant. I have also perused the material placed on record including the FIR, charge-sheet, and documents relied upon by both sides.

9. At the outset, it is required to be noted that Accused No.1, the husband of the present applicant, has already been granted bail by this Court vide order dated 8th July 2025 in Criminal Bail Application No.681 of 2025. The principle of parity, though not absolute, is a relevant consideration while deciding a bail application, particularly when the allegations against the co-accused stand on a similar or higher footing.

10. In the present case, although the allegations against the applicant are serious in nature, it is important to note that the role attributed to her is closely connected with and dependent upon the role played by Accused No.1, who is her husband. It is not the prosecution's case that the applicant independently carried out the financial transactions or executed the sale of shares on her own. The allegation is that certain joint bank and DEMAT accounts were used for diverting funds and that the applicant was either a joint holder or a nominee in those accounts.

11. However, it is prima facie evident from the material on record that Accused No.1 was the person actively handling the financial affairs, and he was the one who managed the operations of the accounts. The entire transaction relating to sale of shares, diversion of dividend income, and closing of fixed deposits appears to have been executed from the accounts primarily operated by Accused No.1. The applicant's alleged role is derivative in nature, based on her position as a joint holder or nominee, and not as a principal actor.

12. It is a settled principle of criminal jurisprudence that parity in the matter of bail must be considered where the co-accused, who is alleged to have played a larger and more active role, has already been granted bail. Unless there are distinguishing features, bail should not be denied to a co-accused who is similarly placed or less involved. In the present case, Accused No.1 has been released on bail by this Court, and there is no material on record suggesting that the applicant's role exceeded that of Accused No.1. Therefore, the principle of parity weighs in favour of the applicant.

13. Further, it is also to be noted that the prosecution has not shown any specific act on the part of the applicant demonstrating that she conceived or orchestrated the scheme to misappropriate the funds. The fact that she is a joint holder or nominee by itself does not conclusively establish criminal intent, especially when the accounts and assets were being handled jointly within the household. Whether the applicant acted with dishonest intention or merely followed the instructions of her husband, or whether she even had full knowledge of the nature and effect of the transactions, are matters that can only be decided after full trial based on evidence.

14. Hence, taking an overall view of the matter, this Court finds that the applicant's role is not severable or distinct from that of Accused No.1, but is rather closely linked and ancillary, and therefore, she deserves to be considered on the same footing for the purpose of grant of bail.

15. It is further important to note that the prosecution case, though based on serious allegations of cheating, breach of trust, and forgery, rests substantially on documentary evidence, much of which has already been seized and is in custody of the Investigating Agency. The documents in question include the Will, account opening forms, delivery instruction slips, transaction records, affidavits, and internal bank communications. There is no allegation that the applicant has destroyed or tampered with such evidence, nor that any such attempt has been made after her arrest.

16. As regards the contention of the complainant's side that the applicant had absconded, it is not the prosecution's case that the applicant was declared a proclaimed offender or that any coercive steps under Section 82 or 83 CrPC were taken prior to her arrest. Absence for some time after registration of the FIR, in itself, may not justify prolonged custody, particularly when the applicant is now available and facing trial.

17. Another important factor which weighs in favour of the applicant is that the entire course of dealings between the complainant and the applicant is not limited to an isolated incident, but is spread over a considerable period of time. During this period, several financial transactions, account openings, and transfers of securities have taken place. The applicant, in her defence, has produced on record multiple documents which are allegedly executed and signed by the complainant herself. These include a registered Will, affidavits, and certain bank and demat account forms.

18. The registered Will dated 23rd September 2021, which is claimed to be signed by the complainant in favour of the applicant, is stated to have been attested by two witnesses and accompanied by a medical certificate regarding her mental fitness. Similarly, affidavits dated 25th September 2021 and 24th November 2021 allegedly record the complainant's willingness to transfer funds and shares to joint accounts with the applicant and state that the complainant regarded the applicant as a son.

19. These documents, on the face of it, create a plausible defence for the applicant and raise a serious dispute of fact as to whether the transactions were the result of fraud and deception, or were conducted with the knowledge and consent of the complainant. It is well settled that such questions relating to the authenticity, voluntariness, or legal validity of documents, whether they were genuinely signed, whether they reflect the true intention of the complainant, or whether they were obtained under undue influence, are matters of evidence, which can only be decided after detailed examination of witnesses and documents during the course of trial.

20. At the stage of considering bail, the Court is not expected to go into the merits of such disputed claims or to conduct a mini-trial. The Court is only required to see whether a prima facie case is made out, and whether continued incarceration is justified pending trial. In the present case, the existence of such documents does cast a serious shadow of doubt on the prosecution's claim that the entire transaction was completely unauthorized or fraudulent. Whether these documents are forged or valid is a question to be decided by the trial Court after recording of evidence.

21. Therefore, keeping in mind that the case involves deeply disputed factual issues, arising from long-standing financial and personal relationship, and considering the existence of documents which show some degree of consent or participation by the complainant, it would not be appropriate to draw any adverse conclusion against the applicant at this stage, or to deny bail solely based on the prosecution's allegations, which are yet to be tested in trial.

22. The applicant is a permanent resident of Mumbai, having family and roots in society, and a minor daughter dependent on her care. She does not have any past criminal antecedents, and there is nothing on record to suggest that she would abscond or tamper with the evidence, if released on bail. The charge-sheet has already been filed, and no custodial interrogation is required at this stage.

23. The Supreme Court has repeatedly held that pre-trial incarceration should not become a punishment, and that bail is the rule, and jail is the exception, particularly when the investigation is complete and trial is likely to take time, as in the present case where the matter involves voluminous documentary evidence and is likely to take considerable time for adjudication.

24. Having regard to the above circumstances, and in particular, the grant of bail to co-accused on similar allegations, the documentary nature of evidence, the applicant's personal background, and the right to personal liberty under Article 21 of the Constitution of India, this Court is of the opinion that the applicant deserves to be released on bail, subject to strict conditions to ensure her availability during trial and to prevent any interference with the prosecution.

25. Hence, the following order is passed.

i) The bail application is allowed;

ii) The applicant Ashlesha Bala Krishnan is directed to be released on regular bail in connection with Crime No.498 of 2023 registered with Chembur Police Station for offences punishable under Sections 406, 420, 467, and 468, read with 34 of the Indian Penal Code, 1860, upon furnishing cash surety in the amount of Rs.50,000/- (Rupees Fifty Thousand only).

iii) The applicant shall, within four weeks from the date of his release, execute P. R. Bond in the amount of Rs.50,000/- (Rupees Fifty Thousand only) with one or more sureties in the like amount, to the satisfaction of the learned Trial Court.

iv) The applicant shall not contact the complainant or any witnesses directly or indirectly, and shall not tamper with the evidence in any manner.

v) The applicant shall cooperate with further investigation, if any, and shall remain available as and when called by the Investigating Officer.

26. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)