

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3686 OF 2025**

Petiwala Mohammed Ibrahim Yusuf ...Applicant
Versus
State Of Maharashtra _____ ...Respondent

Ms. Priyanka Dable *a/w Sacchidanand Singh, Pramila Sathe,
for the Applicant.*

Ms. Anamika Malhotra, *APP for the State-Respondent.*

Mr. Gaurav Bhawnani *a/w Mayanka S. R., Hari Rajguru,
appointed to assist the Court.*

PSI – Abhimanyu Dhande, *Charkop Police Station, is present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 27th NOVEMBER 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 301 of 2025 dated 24th June 2025 registered with the Charkop Police Station for the offences punishable under Sections 70, 316(2), 318(4), 352, 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The facts of the case, in brief, are that a complaint was made by the First Informant stating that she had loaned some

amounts to her husband's friends. One of them is the Applicant herein. She made many request and demands that the amounts be returned to her. However, the Applicant and the co-accused failed to return the said money. On 5th November 2024, the Applicant and co-accused asked for a meeting with the First Informant on the pretext that they will discuss and work out a schedule of repayment of the said loan. Accordingly, they went to Surat but instead of making payment to her, committed the said offence. She made a complaint consequent to which, the FIR was registered and the Applicant was arrested on 7th August 2025.

3. The Applicant made an application seeking bail before the Sessions Court at Dindoshi, Borivali Division, Goregaon, Mumbai. However, by order dated 16th September 2025, the said application was rejected. Hence, the Applicant is before this Court for the relief as prayed.

4. At the very outset, Ms. Priyanka Dable, learned counsel for the Applicant, submitted that the victim/First Informant

had no objection to the grant of bail to the Applicant. On the previous date i.e. on 23rd September 2025, the prosecutrix herself was present in the Court and stated that she had no grievance against the Applicant. She further stated that since she has received the amounts due to her, she no longer was interested in prosecuting the Applicant. Thus, this Court requested Mr. Gaurav Bhawnani, learned counsel, to assist the Court in determining the issue as to whether bail can be granted to the Applicant on the consent of the First Informant and secondly, in case the complaint made by the First Informant to the police was false and intended only to extort money from the Applicant, as it appears in the present case, what action can be taken against the First Informant.

5. Today, Mr. Bhawnani, submitted that as far as the jurisdiction of this Court insofar as it relates to grant or rejection of bail is concerned, unless and until it is determined in the Trial Court, regarding the bonafides of the complaint, this Court in its present jurisdiction does not have the authority to direct any action against the First Informant. He

further submitted that this Court cannot take cognizance of the consent given by the First Informant, as a consideration for grant of bail. He further brings to my notice that the entire incident took place in Surat. The police of Charkop Police Station, Mumbai has registered a zero FIR and has send the same to Surat for investigation. However, the police authorities in Surat returned the said FIR to the Charkop Police Station for investigation and hence, the police officials at Charkop Police Station commenced the investigation and filed a chargesheet before the Sessions Court in Mumbai.

6. Mr. Bhawnani also brings to my notice the fact of a counter complaint made by the Applicant and others against the First Informant, regarding the same issue i.e. the money transaction between the Applicant and the First Informant. The said cross-FIR is registered in Surat. It is settled law that in case of cross-complaints, both the complaints are to be investigated together and tried together to avoid multiplicity of proceedings and conflicting decisions. In any case, as things stand today, the FIR filed by the First Informant in the present

case has already been investigated by the Mumbai police and the chargesheet is filed in the concerned Trial Court in Mumbai. In these circumstances, I leave it to the Investigating Officer as well as Trial Court to consider and take appropriate decision in that regard.

7. Returning to the facts in the present matter, Ms. Dabke submits that the money has been returned to the First Informant and that she has no grievance against the Applicant. The CDRs collected by the Investigating Officers also indicate that on the date of the incident, alleged to have taken place in Surat, the Applicant and the First Informant herself were in Mumbai. It thus appears that the complaint made by the First Informant to the police at Charkop, Mumbai, *prima facie*, appears to be based on false accusation. Ms. Malhotra also fairly concedes that, save and except the statement of the First Informant to the police, there is no other material to indicate that the Applicant has committed the offence, much less the offence as alleged by the First Informant against him.

8. In view of the submissions made by all the parties, no purpose will be served by continued incarceration of the Applicant. I am thus, inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Police Station concerned, on first Monday of every month between 10:00 a.m. and 12:00 p.m., till the charges are framed. He shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

iv) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall not leave India, without permission of the trial Court;

vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail;

9. Application is allowed in the above terms and is accordingly disposed of.

10. Before parting with the present case, I express my thanks to Mr. Gaurav Bhawnani, Advocate for rendering valuable assistance to the Court, including interacting with the Investigating Officer and placing on record material relevant to the case.

11. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)