

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3758 OF 2025

1. Mohammed Ayub Mustafa Hussain
2. Mubarak Hussain Mustafa Hussain Shaikh ...Applicants
Versus
State Of Maharashtra ...Respondent

Mr. Aabad Ponda, Senior Advocate, a/w Kartik Garg, for the Applicant.

Ms. Poonam P Bhosale, APP for the State-Respondent No.1.

Dr. Kshitija Wadarkar a/w Gitanjali Ahire, for Respondent No.2.

API – Yogesh Patil, Pelhar Police Station, is present.

CORAM DR. NEELA GOKHALE, J.

DATED: 22nd DECEMBER 2025

PC:-

1. The Applicants seek their release on bail in connection with C.R. No. 134 of the 2025 dated 7th March 2025 registered with Pelhar Police Station for the offences punishable under Sections 318(4), 336(3), 338, 339, 340, 329(3) and 61(2) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The facts of the case, in brief, are that the father of the First Informant was the owner of the disputed land. He expired on 5th January 2023. It is alleged that in the year

2024, the First Informant found five agreements dated 27th December 1991 in respect of the subject land in his house. He thus applied to the Revenue Office in the office of the Registrar and obtained the documents of the subject property, which reflected the names of the real owners and the subsequent entries and documents in favour of various persons. He realised that the subject land was sold on the basis of a power of attorney dated 12th April 2025, purported to have been executed by the original owners to various persons. Two of the purchasers are the present Applicants. The sale deed is executed on the basis of the power of attorney which, according to the prosecution, is forged by the main accused. It is alleged that the power of attorney dated 12th April 2025 is forged, since the executant of the attorney died in the year 1991 itself. The FIR was registered and the Applicants and others were arrested.

3. Ms. Poonam Bhosale, learned APP, states that the main accused i.e. the persons who forged the power of attorney-the vendors of the subject land are absconding.

4. The Applicants made an application seeking bail before the Additional Sessions Judge, Vasai. However, by order dated 5th May 2025, their bail application was rejected. Hence, the Applicants are before this Court seeking the relief as prayed.

5. The First Informant has been impleaded as a Complainant pursuant to the order dated 17th November 2025, granting leave to the Applicant to amend and implead as a party.

6. Dr. Kshitija Wadkar, learned Counsel for the Respondent No.2, is permitted to file her Vakalatnama in the Registry during the course of the day. She submits that the First Informant has received an amount of Rs.80 Lakhs from the Applicant i.e. Rs.20 Lakhs by way of demand draft and the balance by cheques. She submits that these cheques are post-dated. Be that as it may, she submits that the First Informant has no objection if the Applicant is enlarged on bail since they have settled the dispute. It appears that there are other victims as well and in any case, the consent given by the First

Informant is not relevant for the purpose of grant of bail to the Applicant.

7. Ms. Bhosale has filed her Affidavit-in-reply. She states that the power of attorney and the sale deed executed on the basis of the power of attorney are forged documents. She submits that the offences are serious and that the sale deed is registered on the basis of a power of attorney which is unregistered and notarized. She submits that the role of the present Applicant is serious and punishable with life imprisonment or imprisonment which may extend to 10 years. She also submits that the present Applicants are in collusion with the absconding accused who actually forged the power of attorney. In these circumstances, she submits that the Bail Application be rejected.

8. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

9. Admittedly, the Applicants have returned an amount of Rs.80 Lakhs to the First Informant i.e. one of the Complainants. In any case, the Applicants themselves have a grievance that they have been sold the land on the basis of a forged power of attorney and a sale deed executed on the basis of the forged power of attorney. Despite being victims of the act of the principal accused, the Applicants have returned Rs.80 Lakhs to the First Informant. The Applicants were arrested on 7th March 2025 and have already undergone incarceration for about 9 months. No purpose will be served by their further incarceration. In these circumstances, I am inclined to enlarge the Applicants on bail and it is ordered as under:

ORDER

i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ each with one or two local sureties in the like amount;

ii) The Applicants 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. They 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 Applicants are exempted from appearance by orders of the Trial Court.

iii) If the Applicants have not deposited their passport, the Applicants shall deposit the same with the concerned Police Station, if any;

iv) The Applicants shall not leave India, without permission of the trial Court;

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

vi) The Applicants shall inform their 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 Applicants to co-operate with the conduct of the trial;

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

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

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)