AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.5122 OF 2024

Dhawal Kiran Shah ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.368 OF 2025
IN
BAIL APPLICATION NO.5122 OF 2024

Nimesh B. Dani ... Applicant
In the matter between
Dhawal Kiran Shah ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Prashant P. Raul with Ms. Chandarani Gore and Mr. Harsh Khot for the applicant.

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

Mr. Kunal D. Ambulkar for the intervenor.

Mr. P.S. Sanap, PI, Park Site Police Station, Mumbai, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), the applicant seeks regular bail in connection with Crime Register No.801 of 2023, registered at Park Site Police Station, Mumbai, for offences punishable under Sections 406, 419, 420, 465, 468, and 471 read with Section 23 of the Indian Penal Code, 1860 ("IPC").

2. As per the prosecution’s case, one Nimesh Balvantrai Dani lodged a complaint alleging cheating and misappropriation against the present applicant and co-accused persons. The complainant claims to be the owner of Pinocol Source LLP. According to him, one Atul Modi, associated with his firm, met Vaishali Manjrekar, who introduced herself as Superintendent of Kendriya Bhandar, Goa, in January 2023. She was accompanied by Abhishek Dani, the complainant’s son. It is stated that Vaishali showed them some authorization documents and expressed the requirement of various stationery items for Kendriya Bhandar, Goa. She further informed that a work order would be issued and the said items had to be delivered to Altinho, Panaji, Goa within 20–25 days.

3. The complainant claims to have verified the name of the co-accused on the official website of Kendriya Bhandar, Goa. It is further alleged that the co-accused imposed a condition that the stationery must be compulsorily purchased from Rushabdev Ventures Pvt. Ltd., a firm known to her. Acting upon such assurance, the complainant sent a quotation to Rushabdev Ventures Pvt. Ltd., which is operated by the present applicant Dhawal Shah.

4. It is further alleged that on 20th February 2023, the complainant’s firm sent a quotation for an amount of ₹4,22,37,384/-. A work order for the same amount was thereafter issued under the name of Kendriya Bhandar. As per the prosecution, an amount of ₹2,00,000/- was thereafter collected from the complainant under the pretext of registration, and a receipt was issued on Kendriya Bhandar's letterhead. Subsequently, an additional demand for stationery worth ₹4,42,40,522/- was made. Since the complainant's firm lacked the required working capital, it took assistance from another firm, New Bharat Cylinders LLP, for procuring the said goods from Rushabdev Ventures Pvt. Ltd. and delivering them to Kendriya Bhandar, Goa.

5. A purchase order was issued on 24th February 2023, and as per mutual understanding, Ketan Doshi from New Bharat Cylinders LLP made the initial payments, which the complainant was to repay later. On 5th March 2023, the applicant allegedly handed over a delivery challan of Shree Sai Krupa Transport, Nashik, to the co-accused for delivery of the goods at the designated location in Goa. The delivery was made via Tempo bearing No. MH-15-FV-1299, and toll receipts and photographs of the same are part of the investigation record. It is further alleged that tax invoices were submitted to Kendriya Bhandar and signed by Vaishali Manjrekar. During this entire transaction, Abhishek Dani, the complainant's son, was actively involved in liaisoning with Vaishali.

6. The prosecution states that New Bharat Cylinders LLP purchased the goods from Rushabdev Ventures Pvt. Ltd., which was to be routed through the complainant's firm to Kendriya Bhandar. The applicant, on behalf of Rushabdev Ventures Pvt. Ltd., raised a payment demand from New Bharat Cylinders LLP. Based on that demand, a total sum of ₹3,24,78,997/- was allegedly transferred to Rushabdev Ventures in two instalments. However, no payment was made by Vaishali Manjrekar or any representative of Kendriya Bhandar towards the supplied goods.

7. Despite repeated follow-ups for payment, Vaishali Manjrekar allegedly kept giving evasive responses and continued to give false assurances of payment. Suspicious about the delay, the complainant sent the copies of work orders and tax invoices to the Vigilance Department of Kendriya Bhandar, New Delhi as well as the Mumbai office. In response, an official communication was received stating that Vaishali Manjrekar had ceased to be Superintendent of Kendriya Bhandar, Goa as on 29th February 2020, and that no work orders, invoices, challans or such documents as relied upon by the complainant were ever received or issued by the Kendriya Bhandar. On further inquiry by the complainant's son at Kendriya Bhandar's Mumbai office, it was informed that the entire set of documents appeared to be fabricated, and no such official procurement or supply process had ever been initiated by the organisation.

8. The learned Advocate appearing for the applicant has submitted that the applicant has no connection whatsoever with accused No.1, i.e., Vaishali, nor does he have any link with Kendriya Bhandar, Goa, the organization that is alleged to have issued the work order. It is further submitted that though there are three more FIRs registered against the applicant in connection with similar offences, at Hubli, Shahapur, and Shivaji Nagar Police Stations, in all those cases the applicant has already been released on bail. Even in a separate FIR lodged at Jaysingpur Police Station for an alleged offence of similar nature, the applicant has been granted bail. The learned counsel submitted that the entire allegation stems from the conduct of accused No.1, who falsely portrayed herself as an official of Kendriya Bhandar, Goa, and that the applicant himself has not forged or prepared any fraudulent document. The applicant was arrested on 21 January 2024, and considering the above, it is urged that the applicant may be released on bail.

9. On the other hand, the learned APP and the Advocate representing the victim have strongly opposed the bail application. They submitted that although four different FIRs have been filed against the applicant and co-accused Vaishali in different police stations, and courts may have considered each as an independent case, the modus operandi in all the cases is identical, and the entire fraud is a well-orchestrated scam. Referring to the statements recorded by the Investigating Officer, it is pointed out that multiple individuals, including the complainant, were induced to part with large sums of money, exceeding ₹10 crore, based on the fraudulent misrepresentation made jointly by the applicant and co-accused Vaishali.

10. The prosecution alleges that Vaishali falsely projected herself as an officer of Kendriya Bhandar (Central Stores), Goa, and under her instructions, the complainant was made to believe that stationery items worth crores of rupees were to be supplied. The work order was deliberately created to ensure that the supplies be compulsorily purchased from Rushabdev Ventures Pvt. Ltd., a company owned by the present applicant. On this basis, the complainant and his associates invested crores of rupees, which were transferred to the account of the applicant's company. However, the investigation has revealed that no such work order was ever issued by Kendriya Bhandar, and Vaishali was not holding any official position in Goa at the relevant time. All the documents including the work orders and challans have allegedly been forged to mislead the victims.

11. It is further brought on record that ₹3,24,97,997/- was transferred by New Bharat Cylinders LLP to the account of the applicant's firm, and when the fraud surfaced, the applicant returned only ₹50 lakh, while the balance amount remains unpaid. As per the statement of the Regional Manager of Central Stores, Vaishali was transferred from the Goa office in 2020, and her authority to issue any work order had already been withdrawn. Hence, any work order issued thereafter in her name for Goa office is fraudulent and unauthorised.

12. The investigation also recorded the statement of the Eicher truck driver, who stated that he was instructed by one "Shah" to drive an empty truck to Goa. The driver was paid ₹25,000, of which ₹1,000 was paid in Goa by Vaishali after she took photographs of the empty vehicle, and the vehicle was sent back to Nashik. The second driver corroborated this version and confirmed that no stationery goods were ever loaded. These statements cast a serious doubt over the alleged delivery of goods.

13. The Chartered Accountant (C.A.) who was handling the financial accounts of both accused has also given a statement indicating that fraudulent transactions were carried out by the accused persons, and that when he questioned them about the irregularities, he was threatened with serious consequences.

14. The wife of the applicant has also confirmed in her statement that the applicant and co-accused Vaishali were involved in business dealings, and that in March 2023, the applicant had transferred ₹15.8 lakh from his business account to Vaishali's personal account, which was used as down payment for a new flat and shop.

15. The prosecution has also relied on the statement of one Rajesh Jadhav, who is said to be a common acquaintance through Pawan More (now deceased). Jadhav stated that he allowed his business account to be used for routing money, and he received around ₹2.19 crore from the applicant's company, which was immediately transferred to another entity under instructions from Pawan More. The wife of late Pawan More has confirmed that the business was being run by Akshay Shinde, the Accountant. Akshay Shinde has further confirmed that the applicant and Pawan More were closely associated, and large sums of money were routed from the applicant's firm through More's account and ultimately landed back with the applicant. Documents evidencing this money trail have been placed on record by the Investigating Officer.

16. Considering the above submissions, it is the case of the prosecution that the applicant and co-accused Vaishali, in connivance with each other, have cheated several individuals and entities of crores of rupees by fabricating documents, misrepresenting facts, and creating a web of false assurances. Therefore, it is argued that the applicant does not deserve to be released on bail, as it would not only undermine the ongoing investigation but may also facilitate tampering with evidence and threatening witnesses.

17. I have carefully considered the submissions of the learned Advocate for the applicant and the strong opposition by the learned APP and the learned counsel representing the complainant. I have also perused the case diary, the statements of witnesses recorded during investigation, and the documents placed on record by the prosecution.

18. The allegations made against the applicant, though they may initially appear to be arising out of a commercial transaction, are not of an ordinary business dispute. Upon deeper examination of the material gathered during the course of investigation, it becomes apparent that this is not a mere case of failure of a business arrangement, but rather a case of deliberate, systematic, and pre-planned fraud. The entire transaction, as projected by the applicant and co-accused Vaishali Manjrekar, appears to be a carefully crafted scheme, designed to create a false sense of legitimacy and induce innocent parties to invest large sums of money.

19. The documents collected by the Investigating Officer, such as forged work orders, fake receipts, fabricated authorisation letters, and the statements of multiple witnesses, prima facie indicate that the applicant and the co-accused were acting in active connivance. By impersonating officers of Kendriya Bhandar, Goa, and by misusing its name and reputation, they not only misrepresented facts, but also abused the trust of those who dealt with them believing that they were dealing with a government-authorised agency.

20. The forged work orders were presented in such a manner that they bore the impression of official documents, thus giving the entire transaction a colour of authenticity, which in reality it lacked. The condition imposed upon the victims that the stationery must be purchased only from the applicant's firm, Rushabdev Ventures Pvt. Ltd., also shows that the entire transaction was not genuine, but a closed-loop arrangement aimed at siphoning funds.

21. This Court is conscious of the legal position that mere breach of contract does not amount to cheating, and that commercial disputes must not be criminalised. However, the line between civil and criminal liability is crossed when there is fraudulent intention at the very inception of the transaction. In the present case, the use of forged documents, false representation of official status, impersonation of a government officer, and creation of sham delivery records go beyond the realm of commercial dealings and reflect mens rea, i.e., a criminal intent to deceive and misappropriate funds.

22. Where the intention is to cause wrongful gain or wrongful loss by using forged documents or by misrepresentation, the offence of cheating and forgery stands attracted. The facts of the present case, as they emerge from the record, fall squarely within this category.

23. Thus, at this stage, there is sufficient prima facie material to suggest that the applicant was not merely a passive participant, but an active conspirator, who, in collusion with co-accused Vaishali, duped multiple victims of large sums of money under the guise of a legitimate business transaction. The material further indicates that the applicant stood to benefit directly from the forged work orders, as all procurement was routed through his firm, and large amounts were credited to his accounts.

24. Therefore, this Court finds no merit in the argument that the applicant's role is limited or that the dispute is purely civil in nature. The allegations, supported by the material collected so far, indicate a serious economic offence, involving deceit, fabrication, and criminal breach of trust, which, if proved, would have far-reaching implications not only on the victims, but also on public confidence in institutions.

25. The modus operandi, as revealed from the case papers, discloses that co-accused Vaishali falsely represented herself as Superintendent of Kendriya Bhandar, Goa, and issued fraudulent work orders, giving the impression that large consignments of stationery were to be supplied to a government organization. It is significant to note that these so-called supplies were to be compulsorily procured from the applicant's company Rushabdev Ventures Pvt. Ltd., thereby completing a closed loop between the alleged impersonation and the financial gain.

26. The money trail, supported by bank records, statements of accountants, transporters, and third parties, shows that huge sums of crores were transferred from the complainant and other entities to the applicant's firm. The owner of New Bharat Cylinders LLP has specifically stated that a sum of ₹3.24 crore was transferred to the applicant's company, out of which only ₹50 lakh was later returned after discovery of the fraud. This selective repayment does not dilute the gravity of the offence but rather strengthens the inference that the applicant was aware of the illegality and attempted to mitigate liability.

27. The statement of the transport drivers, particularly the driver of the Eicher truck allegedly used for transporting the stationery items, clearly indicates that no goods were ever loaded or transported. The fact that the vehicle was sent empty, and that only photographs were clicked by co-accused Vaishali to create a false record of delivery, supports the prosecution's case that the entire transaction was a sham, designed only to extract money under false pretext.

28. The accountant of the accused persons, who had access to their financial records, has also disclosed that he noticed multiple fraudulent entries and when he raised objections, he was threatened with dire consequences. This assertion cannot be brushed aside lightly, as it raises concerns of witness intimidation.

29. It is further revealed that the wife of the applicant has admitted in her statement that the applicant and co-accused

Vaishali were in business dealings, and that the applicant had transferred ₹15.8 lakh from his company account to Vaishali's personal account. The timing and use of that money for purchase of property raises serious questions about diversion of proceeds of crime for personal benefit.

30. The statements of Rajesh Jadhav and Akshay Shinde further establish that the applicant was routing large amounts of money through various accounts, possibly to obscure the origin of funds. The fact that a sum of ₹2.19 crore was routed through Jadhav's account at the behest of Pawan More (now deceased), with subsequent layering of transactions, suggests money laundering activity, which may attract further legal consequences.

31. The contention raised on behalf of the applicant that he is already granted bail in other FIRs registered on similar allegations does not entitle him to automatic bail in the present case. Each FIR pertains to separate complainants, separate fraudulent transactions, and distinct sums of money. The magnitude of fraud, consistency in the modus, and the number of victims reveal that this is not an isolated incident, but a repeated pattern of calculated criminal conduct.

32. At this stage, it cannot be said that the applicant was merely a passive recipient of money or an unknowing party. On the contrary, the material on record clearly establishes active involvement of the applicant in creation of the scheme, routing of funds, use of forged documents, and benefiting from the proceeds.

33. If the applicant is released on bail at this stage, there is a reasonable apprehension that he may influence witnesses, tamper with evidence, or divert further funds, thereby frustrating the course of justice.

34. In a case of such economic offence involving multiple victims, forged documents, impersonation of government officers, and significant loss to unsuspecting businesses, the Court must exercise its discretion with caution. The Supreme Court in Y.S. Jagan Mohan Reddy v. CBI, (2013) 7 SCC 439, has emphasized that economic offences involving deep-rooted conspiracy and loss to the public exchequer stand on a different footing and are to be viewed seriously.

35. Considering the gravity of offence, nature of allegations, amount involved, degree of complicity, and the possibility of further tampering with the investigation, this Court is of the opinion that the applicant does not deserve to be released on bail at this stage.

36. In view of the above discussion, the bail application stands rejected.

37. All pending interim application(s), if any, stand disposed of as infructuous.

(AMIT BORKAR, J.)