Navnath Waghmare

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4267 OF 2025

Payal Harsh Kothari Alias Payal Pradeep Jain …Applicant
Versus
State of Maharashtra …Respondent

Mr. Bhavesh Thakur a/w Atul Singh Ms. Arzoo Gupta i.b AVS Legal, for the Applicant.
Mr. Hitendra J. Dedhia, APP for the Respondent-State.

CORAM: R. M. JOSHI, J.
DATED: 29th APRIL, 2026.

PC:-

1. Applicant seeks bail in connection with C.R. No. 630 of 2024 registered with Versova Police Station for the offences punishable under Sections 316(5), 318(4) and Section 3(5) of the Bharatiya Nyaya Sanhita 2023 and Section 66(c) of the Information Technology Act, 2000.

2. As per the case of the informant, she had an account in HDFC Bank, and the applicant was working as a Relationship Manager. According to the informant, applicant cheated her for high returns and insisted her to invest sum of Rs. 2 Crore and 95 Lakhs. She however did not get any returns and it was found that the applicant invested the said amounts in unauthorized Apps. The informant therefore, alleged cheating against the applicant, on the basis of the said report, offence came to be registered against the applicant. On conclusion of the investigation, chargesheet has been filed.

3. Learned counsel for the applicant submits that applicant is a lady and since the chargesheet has been filed, she deserves bail. It is further argued that there is no evidence to indicate that the applicant had any intention to cheat the informant and that merely because there was loss in the investment, no offence can be said to have been committed by her. It is also submitted that HDFC Bank has compensated the informant by transferring Rs. 2 crores and 95 lakhs into the account of the informant and as such the there is no reason for rejection of the bail.

4. Learned APP opposed the application by submitting that the applicant, being a Relationship Manager in the bank, which holding a position of trust. It is submitted that the evidence on record indicates that since inception, applicant intended to cheat the informant. It is further submitted that in case informant was told about the investment, the investment either would have been made directly by her or it should have been received by the applicant, however, record shows that fictitious accounts were opened in the name of Mamta Enterprises and Shakti Enterprises and the amounts were taken from the informant into the said accounts. It is thus contended that the applicant had the intention to cheat the informant since the inception of the transaction.

5. The Informant is a housewife and has an account in HDFC Bank applicant was a Relationship Manager. She was therefore, holding a position of trust. *Prima-facie* perusal of the record indicates that there is nothing to show that informant was made aware about the alleged investments being done in unauthorized Apps. Apart from this, record shows that the amounts were accepted by the applicant in fictitious accounts and the said amounts were transferred into the accounts of the present applicant. If applicant had no intention to cheat the informant, nothing prevented her for accepting the said amounts into her account and creation of fictitious accounts was not necessary. In view of the said fact *prima-facie* this court finds substance in the contention of the Learned APP that this is a case of cheating and such intention is found present since inception of the transaction. Bail is sought on the ground that the applicant is a lady and the amount of Rs. 2 crores and 95 lakhs is paid by HDFC to the informant. It is pertinent to note that the offence of cheating has been committed by the applicant who was holding position of trust while being a banker. Even if it is accepted that the HDFC Bank compensated informant, the said compensation is paid from public money and as such applicant cannot be take permitted to take advantage of the same. Suffice it to say that the information of the applicant found to be cheating the informant to the tune of Rs. 2 crores and 95 lakhs merely for this reason the applicant is not entitled for bail.

6. Hence application stand dismissed.

(R. M. JOSHI, J.)