

MHCC020026152025



IN THE COURT OF SESSIONS FOR GR. BOMBAY
CRIMINAL BAIL APPLICATION NO. 399 OF 2025

Vinay Kumar Ashok Khatu

Age:- 42 years, Occ:- Advocate

R/at:- 3rd floor, Kamanwala Chambers,

Opp. Bombay Store, Sir PM Road,

Fort, Mumbai 400001.

..Applicant/accused

Versus

The State of Maharashtra

Through **Azad Maidan** Police

Station, Mumbai.

(In C.R.No.308 of 2024)

...Respondent/State

Urmila Talyarkhan

R/at:- 45 Golf Links, Lodhi Road,

New Delhi 110003.

..Complainant/victim

CORAM : V. G. RAGHUWANSHI
JUDGE, (C.R.NO.10)

Heard on : 22/04/2025

Decided on : 03/06/2025.

Adv. Mr. Aniket Nikam a/w Adv. Kaushalya Patil, Adv. Smita Sonawane,
Adv. Vaishali Rajkarne i/b Pushpa Ganediwala and Company for
applicant/accused.

APP Mr. Ajit Chavan for State.

Adv. Mr. Rizwan Merchant a/w Ramiz Shaikh for intervenor/victim.

Order

This is an application for grant of bail under section 439 of CrPC. Applicant submits that, he is a practicing advocate. Complainant engaged him as an advocate for looking after her 12 cases and some property matters. Thereafter, the complainant alleged that applicant

swindled Rs.2.57 Crore from her by giving her fabricated orders of Hon'ble High Court. Applicant claimed bail on the grounds mentioned in his application.

2. The prosecution opposed this application on grounds mentioned in its reply. The complainant intervened by filing her intervention application. I have heard learned counsels for all sides.

3. Allegations against accused/applicant in brief are as under:-

One Draupadi Pandurang Patil sold her agricultural land gut No.243 by a sale deed dated 08.03.1996 to one Kailash Agrawal. Said Kailash Agrawal sold that land to Urmila Darab Talyarkhan (informant) by a sale deed dated 22.05.1998. Name of informant was mutated in revenue record.

4. Thereafter, one Tukaram Patil, claiming to be legal heir of Draupadi Pandurang Patil filed a Civil suit No.53/2003 in Civil Court District Raigarh. He challenged sale deed by Draupadi Patil in favour of Kailash Agrawal and sale deed by Kailash Agrawal in favour of informant. He claimed declaration that, both sale deeds are illegal and there are not binding upon him. He has 10/54th share in that agricultural land. He joined informant as defendant No.10 in that Suit.

5. The trial Court decreed that Suit and prohibited informant from creating 3rd party interest in that land. Feeling aggrieved by said judgment and order informant approach district Court *Raigarh* in 1st Appeal RCA No.146 of 2012. Advocate Mr. D. N. Joshi was representing informant. He did not appear before First Appellate Court on the date of hearing, therefore 1st Appeal was dismissed by district Court on 13.03.2018. Informant was staying at Delhi during that period therefore

she was not aware about this order as advocate Mr. D. N. Joshi did not inform her. She came to know about it in 2022.

6. Informant was acquainted with one advocate Mr. Prakash Nichani in reference to her business. He introduced applicant/accused advocate Vinaykumar Khatu to her. She appointed applicant as her advocate in six matters pending before Civil Court, SDO Court *Raigarh*, a Suit against her husband etc. He charged Rs.10,00,000/- per case. She transferred Rs.2 crore from account of her friend Mr. Navdeep Kumar Diwan by RTGS to account of V. K. Associates (applicant), Mr. Somnath Dhani, Mr. Shrjeet Nayar, Mr. Pritam Sali etc. She filed 2nd Appeal No.22993 of 2022 in Hon'ble High Court, Bombay as per advice of applicant. She also filed an application for condonation of delay of 4 years and one more application for grant of stay in said appeal.

7. The informant alleged that, on 17.10.2022 applicant informed her that 2nd Appeal No.22993 of 2022 is admitted by Bench of Hon'ble Justice Shri. S. K. Shinde and cancelled order in 1st Regular Civil Appeal No.146 of 2012. Applicant handed over an order of Hon'ble High Court to her on 17.10.2022. In this way applicant won her confidence. He told informant that, she will have to spend Rs.30,00,000/- to obtain order in 2nd appeal. She trusted applicant and evinced her readiness to spend said amount. She directed her friend Mr. Navdeep Kumar Diwan to transfer Rs.30,00,000/- to account of Mr. Omkar Chavan by RTGS. That amount was transferred accordingly.

8. Thereafter, on 12.12.2022 applicant visited her house at *Alibaug* and informed that, Hon'ble High Court passed an order in her favour in 2nd Appeal. He gave a copy of said order dtd. 12.12.2022 to informant. She trusted applicant and transferred total Rs.2.3 crore by RTGS. In

spite of this the applicant failed to file a Suit against her husband Darab Talyarkhan about cheating. Therefore, she went to advocate Shama Bothe in April, 2024 to seek her advice. Advocate Shama Bothe told her that both copies of orders dated 17.10.2022 and 12.12.2022 are fabricated. The applicant gave her fabricated copies of orders dated 17.10.2022 and 12.12.2012 and represented that those copies are genuine. He induced her to pay huge amount by wining her confidence and cheated her. Thereafter, she visited website of Bombay High Court and realized that, there was not even a single hearing in 2nd Appeal filed by her. Hence, she lodged report.

9. Learned counsel for applicant submitted that, charge-sheet is filed in this case. Applicant was arrested on 19.10.2024. He is in judicial custody. Nothing needs to be seized from him. There is no possibility of tampering evidence. He further submitted that, there is unexplained delay in filing report. He was engaged to represent her in 11 cases and not in six cases. Allegations in FIR are vague. Even after knowing that orders given by applicant are fabricated, she took about 4 months to lodge report. There is no plausible explanation for this delay. He further submitted that, informant is a seasoned litigant. He pointed out WhatsApp chat to canvas that the applicant was continuously inquiring about status of her case, after dates of aforesaid alleged fabricated orders. There is only one 2nd Appeal in Hon'ble High Court, therefore it is obvious that she was asking about SA No.22983 of 2022 only. If applicant had already given her copies of orders, why she was asking about status of appeal in Ho'ble High Court. He vehemently argued that applicant did not give any such fabricated orders to informant and alleged that, the informant is in habit of making grievance against her advocates if they cannot get orders in her favour. He pointed out that, the informant made such grievance against advocate D. N. Josh and

advocate Nichani also. Investigating officer did not file CDR and location history of applicant's mobile. On 12.12.2022 applicant was busy before Hon'ble High Court for the whole day. Mr. Navdeep Diwan made a statement to police that, he paid amount to applicant as per directions of complainant. This amount was paid for different reasons. There is no grievance that applicant charged exorbitantly her grievance that, applicant gave her false order. The report is nothing but an attempt to recover professional charges from advocates after work is done by them. He submitted that Mr. Diwan is close friend of applicant. Initially offence punishable under sections 409 and 467 of IPC were not mentioned in FIR. These sections punishable more than 7 years imprisonment were added only to deprive applicant of bail. Learned advocate for applicant relied upon following citations:-

- I. *Ishwar Dayaram Revekar V/s State of Maharashtra* in Criminal Application (BA) No.789 of 2019.
- II. *Delhi Race Club (1940) Limited and others V/s State of Uttar Pradesh and another* (2024) 10 Supreme Court Case 690.
- III. *Dalip Kaur and others V/s Jagnar Singh and another* (2009) 14 Supreme Court Case 696.
- IV. *Sheila Sebastain V/s R. Jawaharaj and another* (2018) 17 Supreme Court Case 581.
- V. *Sandeepkumar Lal Bahadur and another V/s State of Maharashtra* in Criminal Bail Application No.4606 of 2024.
- VI. *Satender Kumar Antil V/s Central Bureau of Investigation and another* (2022) 10 Supreme Court Case 51.
- VII. *Prabhakar Tewari V/s State of Uttar Pradesh and another* (2020) 11 Supreme Court Case 648.

10. Learned Public Prosecutor submitted that, this is not a matter of recovery only. The applicant represented that orders given by him were genuine. Those orders were purportedly passed by Hon'ble High Court in Civil jurisdiction and orders of Civil Court are valuable securities within meaning of definition in section 30 of IPC. Therefore, section 467 of IPC is applicable. Applicant was engaged as lawyer by informant, he was her attorney within meaning of section 409 of IPC. Therefore, sections 467 and 409 of IPC are rightly applied in this case.

11. Learned counsel for informant/intervenor submitted that, the applicant claimed bail on technical grounds like grounds of arrest and reasons of arrest were not communicated to applicant and he was not given copy of remand application. He pointed out from charge-sheet that these contentions are false. At this stage learned counsel for applicant submitted that, he is not pressing these technical grounds. Learned counsel for informant submitted that, the applicant extracted Rs.2.57 crore from informant for representing her in various matters at Mumbai and Alibaug. The applicant gave fabricated copies of orders dated 17.10.2022 and 12.12.2022 to informant in presence of Mr. Pravin Naik, at that time applicant told that, the Appeal was admitted. He drew my attention towards operative part of orders. He also alleged that, there are 2 more instances of forgery and fabrication of false orders done by applicant and they are under investigation. Relying upon representation of applicant, informant transferred money to applicant. Those amounts were transferred to accounts of V. K. Associates, Mr. Somnath Dhani, Shreejeet Nayar, Pritam Salvi, Omkar Chavan, Prashant Kumbhar and Nitin Gangal. These persons are friends, employees and associates of applicant. Applicant will certainly tamper their evidence, if he is released on bail. Advocate Nichani was never arrested as claimed by applicant in WhatsApp chat. He pointed out WhatsApp chat between

applicant and accountant Mr. Vinay Mishra in which he stated that stay order is passed. He pointed out statements of informant Mr. Pritam Suresh Salvi, Mr. Shrijeet Nayar, Mr. Omkar Chavan, Mr. Prashant Kumbhar, Mr. Navdeep Kumar Diwan and Mr. Pravin Naik to show that, there was misrepresentation and consequent transfer of money. This shows applicant misrepresented and gave fabricated copies of orders to applicant in presence of her driver Mr. Pravin Naik. He also drew my attention towards registration of offences against applicant in Delhi and in Kerala for misrepresentation himself as an IAS Officer and cheating, to show that applicant has criminal antecedent. He relied upon judgment in the case of Bhagwan Singh V/s State of U. P. and Ors. In Criminal Appeal Nos.. of 2024 (@ SLP Nos. No.2024 @ Diary No.18885 of 2024 and Naveen Singh V/s State of Uttar Pradesh and another, (2021) 6 Supreme Court Case 191. He prayed for rejecting this bail application.

12. I have given thoughtful consideration to submissions of both sides. The allegations against applicant are that he handed over copies of two orders allegedly passed by Hon'ble High Court to informant. Thereby he won her confidence and then he duped her of about Rs.2.57 crore. The allegations of informant are supported by her driver in whose presence said orders were allegedly given to informant. Perusal of statements of Mr. Pravin Naik *prima facie* shows that, applicant handed over those copies to informant and told her that the order of District Court has been stayed/set-aside. Now, if prosecution succeeds in showing that applicant had handed over those copies of orders/judgments then burden will shift upon the accused to show that he did not fabricate those documents because he will be the person having special knowledge as to who made those documents (section 106 of Indian Evidence Act).

13. Both parties drew my attention towards WhatsApp chats. At this stage, I won't harp much upon those chats because applicant was representing informant in several matters and there is possibility of straying away from the logical way of thinking and coming to logical conclusion. At present it is better to rely upon the statements of witnesses and circumstances of this case to draw logical conclusion.

If one decides to rely upon WhatsApp chat then he cannot ignore that applicant had stated about stay granted by Hon'ble High Court in his chat with accountant Mr. Vinay Mishra and it is also clear that, huge amounts were transferred to account of applicant and his friends/associates after the date of fabricated orders.

14. In this case applicant was attorney/agent of the informant. He was lawfully appointed as lawyer of informant. It is also clear from various chats between the applicant on one side and the informant, Mr. Navdeep Kumar Diwan on another side that, the applicant was doing lot of tasks for the informant. There was one alleged Power of Attorney also, applicant appeared before Revenue Authorities, Custom Authorities, Sales Tax Authorities and was also conducting land survey for the informant. A judgment of Civil Court can be considered a valuable security under section 30 of Indian Penal Code. A valuable security is a document that either creates, extends, transfers, restricts, extinguishes or releases a legal right, or acknowledge a legal liability, or absence of legal right. Court judgments often create or modify legal right and liabilities. Thus, the judgments fit within definition of valuable security. Therefore, I agree with submissions of Id. APP that, sections 409 and 467 of IPC were rightly added in FIR.

15. In this case the applicant is a practicing lawyer with standing of

more than 20 years. I presume that he knows and understands the sanctity of his profession and the services he render to the society and his clients. The allegations against applicant are very serious. Hon'ble Apex Court dealt with such instances in the matter of Naveen Singh (supra) and Bhagwan Singh (supra). These cases deal with instances of fabrication of Court record. Hon'ble Apex Court in the matter of Naveen Singh observed in para No.12.3 that, "..... *If the Court record is manipulated and/or forged, it will hamper the administration of justice. Forging/manipulating the Court record and taking the benefit of the same stand on altogether a different footing than forging/manipulating other documents between two individuals. Therefore, the High Court ought to have been more cautious/serious in granting the bail to a person who is alleged to have forged/manipulated the Court record and taken the benefit of such manipulated and forged court record more particularly when he has been charge-sheeted having found prima facie case and the charge has been framed*".

16. It is contention of the applicant that the applicant and Mr. Diwan were persistently inquiring about status of 2nd Appeal when orders were already given to them. This conduct was unnatural. I wish to point out that people engage lawyers because they do not understand procedure of Courts and nature of orders or laws. Therefore, this argument does not hold water. This Court cannot ignore the antecedent of applicant. Admittedly, two offences were registered against applicant for misrepresenting himself as an IAS Officer. If this Court exercise discretion in favour of applicant it will give a wrong message to society. The seriousness of allegations and antecedent of applicant prevent me from exercising discretion in favour of applicant. Judgment of Hon'ble Apex Court in matter of Naveen Singh (supra) and Bhagwan Singh (supra) deal with same subject and prevent this Court from exercising

discretion in favour of applicant/accused in such cases. For all these reasons this is not a fit case to grant bail. Hence, I pass following order-

ORDER

Criminal bail application No.399 of 2025 is rejected and disposed off accordingly.

(V. G. Raghuwanshi)



Date : 03-06-2025

Additional Sessions Judge,
City Civil Court, Gr. Mumbai
C.R.No.10

Directly typed on computer : 02-06-2025 and 03.06.2025
Signed on: 03-06-2025

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CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL
SIGNED JUDGMENT/ORDER”

UPLOAD DATE AND TIME
03.06.2025 at 03:11p.m

NAME OF STENOGRAPHER
Mr. Gopal N. Sutar

Name of the Judge (with Court Room No.10)	V. G. Raghuwanshi C.R. No.10
Date of Pronouncement of JUDGMENT/ ORDER	03.06.2025
JUDGMENT/ORDER signed by P. O. on	03.06.2025
JUDGMENT/ORDER uploaded on	03.06.2025