

MHCC020021232025

**IN THE COURT OF SESSIONS FOR GR. BOMBAY****Criminal Bail Application No.306 of 2025****Mukhtar Moinuddin Kondkar**

Age - 44 years, Occu. : Business,

R/at. : Room No.1, 313/C, Kondkar

Chawl, Rambhavu Bhogle Marg, Near

Mafatlal Mil, Mazgaon,

Mumbai-400 010.

..Applicant/accused

Versus

The State of Maharashtra

Through **M. R. A. Marg** Police

Station, Mumbai.

(In C.R.No.154/2023)

...Respondent/State

Coram : DR. Shri S. D. Tawshikar**(Court No. 08)****Heard on : 17.02.2025****Decided on : 17.02.2025****Appearance:**

Ld. Adv. Mr. Premlal Krishnan for the applicant/accused.

Addl. P.P. Mr. V. N. Walekar for respondent/State.

ORDER

(Dictated and pronounced in open court)

This is the second bail application filed under Section 439 of Code of Criminal Procedure, 1973 ("CrPC" in short) **after filing of charge-sheet** in connection with **C.R. No. 154 of 2023**, registered with **M. R. A. Marg** Police Station, Mumbai for the offences punishable under Sections 149, 420, 465, 471 r/w 34 of the Indian Penal Code ("IPC" in short).

2. Perused application and reply (Exhibit-02) filed by the State.

3. Heard both sides.

4. Mr. Premlal Krishnan, learned advocate for the applicant submits that this court has rejected the earlier application for bail vide order dated 10.04.2024. In view of the liberty granted by Hon'ble Bombay High Court, this fresh bail application is filed. The earlier application for bail came to be rejected mainly on the ground of abscondance of co-accused Smt. Bittu Khan, wife of the present applicant. However, later on she came to be arrested and she later on released on bail by Additional Chief Judicial Magistrate, Ballard Pier, Mumbai vide order dated 17.08.2024.

5. Learned advocate further submits that after rejection of earlier order, applicant had approached Hon'ble Bombay High Court. In view of the development in the matter, applicant withdrew the bail application filed before the Hon'ble High Court with liberty to file fresh bail application before the Trial Court. Accordingly, the fresh bail application was filed before the learned Additional Chief Judicial Magistrate, Ballard Pier, Mumbai, however, application came to be rejected vide order dated 17.01.2025. As such the present application is filed.

6. Learned advocate submits that the applicant is behind bars since 28.08.2023. Entire investigation is complete and already charge-sheet is filed. The wife of the applicant is also arrested and is released on bail. The transaction is basically commercial in nature. The further detention of the applicant behind bars is not warranted. The offences are triable by learned Judicial Magistrate. It would take considerable time to dispose of the case by the Trial Court. He ultimately prays to release accused on bail.

7. *Per contra*, Mr. V. N. Walekar learned APP strongly objects the application. He submits that the applicant is the main accused. He has

cheated the informant for an amount of more than Rs.65 Lakhs. Applicant is having criminal antecedent. If he released on bail, he may indulge in similar offences. Learned APP further submits that there is no change in circumstance to grant bail.

8. Admittedly, this is successive bail application. Therefore, it is required to be seen whether there is any change in circumstances to give right to applicant to file fresh bail application. From the last order passed by this court dated 10.04.2024, it can be seen that one of the reasons for not granting bail was abscondance of his wife of the applicant namely Smt. Bittu Khan. From the record it appears that subsequently, she has been arrested and is also released on bail. It is further pertinent to note that the applicant has sought liberty from the Hon'ble High Court to file fresh bail application and accordingly it is filed. Hence, I find sufficient reasons to entertain the present successive bail application.

9. Admittedly, investigation is complete. The charge-sheet is already filed. Co-accused namely Smt. Bittu Khan is also later on arrested and released on bail. Applicant is behind bars since last 1 and ½ years. It is submitted that yet charge is not framed by the learned Trial Court. Considering the pendency of the case before the Courts of Magistrates in Mumbai, it is obvious that it will take considerable time to conclude the trial. Considering the nature of offence and maximum punishment provided for the offence, I find that the further detention of the applicant would be penal in nature, which is not permissible under the law. The apprehension of the prosecution about abscondance of the applicant can be taken care of by imposing certain conditions. Hence, the order.

ORDER

A] The Criminal Bail Application No. 306 of 2025 is allowed.

- B]** The applicant **Mukhtar Moinuddin Kondkar** be released on bail in connection with **C.R. No. 154 of 2023**, registered with M. R. A. Marg Police Station, Mumbai for the offences punishable under Sections **149, 420, 465, 471 r/w 34** of the Indian Penal Code, on **solvent surety of Rs.50,000/-** (Fifty thousand only) and PR bond in like amount on following conditions -
- i)** Applicant shall not tamper with the evidence of prosecution.
 - ii)** Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to tamper with the evidence.
 - iii)** Applicant shall furnish documents as the proof of his address, identity and contact details **before the learned trial court along with his bail bonds.**
 - iv)** Applicant shall update the court as well as the investigating officer as and when there is change in his address.
 - v)** Applicant shall not commit any criminal act while on bail.
- C]** Breach of any condition shall entail the consequence of cancellation of bail.
- D]** Bail before the Learned Trial Court.
- E]** The Bail Application No.306 of 2025 is disposed of accordingly.



(Dr. S. D. Tawshikar)
Additional Sessions Judge,
City Civil Court, Gr. Mumbai
C.R.No.08

Date : 17.02.2025

Dictated on : 17.02.2025
Transcribed on : 18.02.2025
Corrected on : 18.02.2025 (A.O.H.)
19.02.2025 (Public Holiday)
Signed on : 20.02.2025

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

UPLOAD DATE AND TIME
20.02.2025 at 06:00 p.m.

NAME OF STENOGRAPHER
Mrs. Shravanti Karre
uploaded by Mrs. Manjrekar

Name of the Judge (with Court Room No.)	Dr. S.D. Tawshikar C.R. No.08
Date of Pronouncement of JUDGMENT/ ORDER	17.02.2025
JUDGMENT/ORDER signed by P. O. on	20.02.2025
JUDGMENT/ORDER uploaded on	20.02.2025