

MHCC020004262026

**IN THE COURT OF SESSIONS, GREATER BOMBAY****CRIMINAL BAIL APPLICATION No.83 OF 2026**

Akshay Gorakhanath Shelake]
Aged : 29 years, Occ : Service,]
Residing at : 124, Pritish Housing Society,]
K.K. Wagh, Amrutdham, Mumbai Agra Road,]
Nashik – 422 003.] Applicant

Versus

The State of Maharashtra]
(At the instance of Cyber Police Station,]
Western Division, Bandra, Mumbai] ...Respondent.
Vide F.I.R. No.137/2025)]

APPEARANCES:-

LD. Adv. Shirish Desai for applicant.
LD. APP Abhijit Gondwal for the State.

CORAM : AMIT ANANT LAULKAR
ADDITIONAL SESSIONS
JUDGE, (C.R. NO 30)

DATE : 28th JANUARY, 2026

ORDER

1. *Pressing upon change in circumstances*, applicant accused herein moved this Court vide Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023, seeking regular bail in connection with C.R. No.137/2025 registered with Cyber Police Station, Western Division, Bandra, Mumbai, for offence punishable under Sections 61, 318(4), 319(2), 238, of the Bharatiya Nyaya Sanhita 2023 (BNS) and Section 66(C), 66(D) of the Information Technology Act, 2000.

2. Post filing of the final report vide Section 193 of the BNSS, when the co-accused conferred with bail liberty, the applicant quoting change in circumstances as well rule of parity, knocked the doors of this Court with instant second bail application and implored for his release on suitable bail.

3. *Succinct outline of the FIR states into volume that* during the period from 12.04.2025 to 15.04.2025 the informant got message from Mobile No.9611725423, as if the said message was of the director of the company namely Sheetal Shetty. The person communicating over the phone won the confidence of the informant. It is further alleged that the aforesaid dummy person claimed himself as director of the company and instructed the informant to transfer an amount of Rs.1,93,06,000/- from the account of the company maintained with SBI Bank, bearing Account No.00000040884833084 in the ICICI Bank Account No.147705004554. Subsequently the informant and other officials of the company came to know that the person who had messaged the informant for transferring amount, has cheated and defrauded the company for the aforesaid amount. With these allegations report was lodged and crime came to be registered. Amid investigation the role of applicant accused *came in fore*, hence he was arrested, interrogated and remanded to MCR so on till date. In the backdrop instant application imploring for bail.

4. *Per* accused, he is innocent and falsely implicated in the crime. The investigation is complete and final report is filed in this matter. The whole disputed amount of Rs.1,93,06,000/- was transferred to the ICICI Bank account which belongs to accused No.1 Shubham

Kunjir. The applicant /accused is not the beneficiary of the said transaction. The investigation in this crime is completed and charge sheet has been filed before the trial court. Further incarceration of accused/applicant is not required for any purpose. Other co-accused namely Aryan Mishra, Ujjwal Raj Avadesh kumar Singh and Aditya Shinde has been already granted bail by this court, who is shown having much major role than the applicant. He claims parity. He conceded to co-operate in the investigation as well as trial. At the end, he craves for his release on suitable bail.

5. *Combating above stance*, the prosecution raised potent objection for freeing of accused through their detail reply. If he is released, then there are likely chances that he may tamper the evidence. The *prima facie* case is made out against the applicant. If applicant is conferred with the bail, he would pressurize the witnesses. He has active involvement in the crime. On the count of gravity of crime, prosecution prayed for rejection of the application in *limine*.

6. Heard learned Advocate *Shirish Desai* for the applicant accused and learned APP *Abhijit Gondwal* for the prosecution.

7. Adverting towards submissions made across the bar relating to the grant of bail it is epochal to look into the prime considerations of the bail vide Sec. 483 of BNSS which is *at par* with section 439 of the Code of Criminal Procedure. The Hon'ble Supreme Court has, in *catena* of judgments, outlined the considerations on the basis of which discretion under Section 439 of the Code of Criminal Procedure has to be exercised while granting ball. A useful reference on

the point can very well be made from magnificent verdict of the Hon'ble Supreme Court in the case of ***Gurcharan Singh v. State (Delhi Administration), (1978) 1 SCC 118***. Certain important factors that are always considered while exercising discretion for conferring bail which *inter-alia* relates to *prima-facie* involvement of the accused, nature and gravity of the charge, severity of the punishment, and the character, position and standing of the accused. A gainful reference can also be made from the verdict of Hon'ble Supreme Court in the case of ***State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21***. The above factors do not constitute an exhaustive list. The grant of bail requires the consideration of various factors which mainly depends upon the specific facts and circumstances of the case before the Court. There is no strait jacket formula which can ever be prescribed as to what the relevant factors could be.

8. In ***Kalyan Sarkar V/s Rajesh Ranjan (AIR 2004 SC 1866)*** it is held that “*The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence.*” Thus, while deciding question whether bail is to be granted or not, examination of detailed examination of evidence and elaborate documentation of the merit of the case need not be much considered. It is not at all desirable that court should appreciate evidence in depth at the pre-trial stage.

9. In the light of preceding legal scenario present application seeking regular bail deserves due deliberation.

10. Offence punishable under section 61, 318(4), 319(2), 238, of the Bharatiya Nyaya Sanhita 2023 (BNS) and Section 66(C), 66(D) of the Information Technology Act, 2000 are alleged against instant accused. *Except offence under section 318(4) of BNS all other alleged offences are bailable in nature. They all are triable by the court of Magistrate and as such compoundable in nature. The offence vide section 318(4) contemplate punishment of imprisonment for a term which may extend to 7 years along with fine. None of the alleged offences are either punishable with death sentence or life imprisonment.* In present crime Final Report is placed before this court and now it is stand over for further due deliberation. Having scanned police papers cum charge-sheet it is crystalline that investigation as regards present accused is concerned is already over. As such, there is nothing remained to be recovered or discovered at the instance of the applicant. It is not the case of the prosecution that further custodial interrogation cum extended incarceration of the applicant is required for any further investigation. Thus, the factual scenario is loud clear that investigation as regards applicant is concerned is complete in all respect.

11. Having pondered over entire record it unveils that the subject amount of alleged deception is already recovered from co-accused. The investigation is primarily based upon documentary evidence which has been already placed before the trial court. The role ascribed towards the applicant is petite then the others. The amount of

alleged deception was deposited in the account of co-accused Shubham Kunjir. Apparently, applicant is not direct beneficiary of the monetary transaction. No amount is recovered at his instance. There is no material showing that the applicant procured fake currant bank accounts from various persons and handed over to the co-accused. The only role ascribed towards the applicant is that he had booked hotel rooms in Mumbai and later-on handed over the bank account kits and SIM cards linked to the accounts of certain persons to the individuals. Thus, the role is less petite. His cell phone is sent for forensic evaluation. The report seems awaited but as such *prima facie* noting has extracted from the same. There is no memorandum statement made by the applicant. It is not the case that the applicant is the main mastermind of the alleged cheating. The co-accused person has been enlarged on bail by this court. There are no chances to conclude trial on expedite basis even in future. The investigation in crime is completed and therefore, further custody of the present applicant is not required. Applicant /accused is ready to abide by the conditions put-fourth by this court for his release on bail.

12. ***Merely because other accused are not traced out, that itself is not the sole reason to restrict liberty of the applicant. Even if his detained behind the bar no fruitful purpose will be served. His liberty may not cause impediment in carrying out further investigation in the crime.*** All above aspects seems epochal in having due deliberation of fate of this application. Having considered entire material placed on record, I am of the opinion that the presence of the accused for facing trial can be secured and there seems no hurdle in the same.

13. In addition, now as such nothing is remained to investigate anymore and ***the accused /applicant is incarcerated for almost more than six months.*** Presence of accused behind bar for any sort of custodial interrogation does not warrant for. The accused is ready to attend the IO and court regularly. The anxiety expressed by the prosecution as regards gravity of crime is concerned, it can be taken care of by putting stringent condition upon him. The elements of further investigation are not shown by the prosecution. More-so, ***it is not aptly shown by the prosecution that present accused by virtue of his status may tamper with evidence.*** There are no potent objections to disown the accused with reliefs of bail.

14. All above factors enlarge the scope to release the applicant on bail under Section 483 of BNSS.

15. Indeed, it is well settled legal proposition, while dealing with regular bail application, is that the object of the bail is to secure appearance of the accused at the time of his trial by reasonable amount of bail. Its object is neither punitive nor preventive. Application of similar object and scanning instant application under same object is holding significance. A useful reference on the point can be made from the law guided by the Hon'ble Supreme Court in the Case of ***Sanjay Chandra V/s CBI reported in (2012 AIR(SC)830)***. In present case there are no special reasons put-forth before this court that may lead to raise exception to aforesaid object. In ***P. Chidambaram V/s Directorate Of Enforcement reported in (2020(13)SCC 791)*** the Hon'ble supreme Court repeatedly highlighted the proposition that Bail the rule and jail the exception. Even if, for the sake of argument it is assumed that there

are grounds attributing alleged guilt towards the accused persons yet it may not take exception to the jurisdiction of this court to enlarge the accused on bail.

16. While enlightening on the aspect of bail the Hon'ble Court expounded in loud manner in the case of *Uttamsingh vs. State of Himachal Pradesh (2021 All MR (Cri) Journal 75)* that the object of the bail is to secure the attendance of the accused in the trial and the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial. In instant matter there is no such anxiety that the accused may flee from justice and remain absent for the trial. Certainly, then the legal position tilts in favour of the applicant accused.

17. Utmost recently, the Hon'ble Supreme court observed in the case of *Mohd Muslim @ Hussain V/S State (NCT Of Delhi) Criminal Appeal No. (S) Of 2023 (@ Special Leave Petition (CRL.) No.S). 915 Of 2023) dated March 28, 2023*, that

“ 23. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal (also see Donald Clemmer’s ‘The Prison Community’ published in 1940). Incarceration has further deleterious effects – where the accused belongs to the weakest economic strata: immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.”

Precisely, the Hon'ble Supreme Court unfolded the evil impact of the long incarceration and enlarged the concern accused on bail by pressing upon the constitutional right of personal liberty and speedy trial of the accused persons. The Hon'ble court reasserted the observations made by the Court in the celebrated verdict of ***Abdul Rehman Antulay V/s R.S.Nayak ((1992) 1 SCC 225)***

18. Canvassing wide perspective and expounding loud facets of the principle of bail, the Hon'ble Supreme Court after taking stock of earlier precedents unfolded legal principles in the case of ***Satender Kumar Antil V/s Central Bureau of Investigation (SC), 2022 AIR (Supreme Court) 3386*** wherein the Hon'ble Court pressing upon the bail is the rule and presumption of innocence loudly held that “ *The principle that bail is the rule and jail is the exception has been well recognized through the repetitive pronouncements of this Court. This again is on the touchstone of Article 21 of the Constitution of India.*” It is further highlighted by the Hon'ble Court that “ *Innocence of a person accused of an offence is presumed through a legal fiction, placing the onus on the prosecution to prove the guilt before the Court. Thus, it is for that agency to satisfy the Court that the arrest made was warranted and enlargement on bail is to be denied.*” Thus, the thumb rule that the bail is always and jail is an exception would emerge herein.

19. The landmark verdict as regards ***economic offences and bail is concerned***, the Hon'ble Supreme Court in the case of ***P. Chidambaram V/s Directorate of Enforcement, (2020) 13 SCC 791*** held that “ *in that regard what is also to be kept in perspective is that even if, the allegation is one of grave economic offence, it is not rule that bail should be denied in every case since there is no such bar*

*created in the relevant enactment passed by the legislation nor does the bail jurisprudence provided so". Precisely, the Hon'ble Supreme Court persistently highlighted the golden legal principle as regards bail is concerned that " **Bail is a rule and jail is an exception**". Even it is expressly pin pointed that the grave economic offences are also not exception to the same rule and it applies equally to them, which differs from case to case basis on the facts involved therein and securing the presence of the accused to stand trial. Invoking likewise legal scenario it is crystalline that same would be applicable to the applicant as no exceptional circumstances otherwise even attributable.*

20. *Apogee* of all above facts, foregoing peculiarities and factual scenario, speaks in clarion manner that the application needs to be allowed, however, by putting certain restrictions. In instant case when the investigation as regards instant accused is concern is over by all means, so also when he is committed to attend the I.O. & Court and follow terms and conditions, imposed if any, I believe there is no hurdle for bail. Ultimately, owing to preceding distinctive features, the application deserves approval, however, by putting certain conditions, ***Ergo the order.***

ORDER

1. Bail Application 83 of 2026 is allowed.
2. The accused **Akshay Gorakhnath Shelake**, arrested in connection with the Crime No.137/2025 registered with Cyber Police Station, Western Division, Bandra, Mumbai, for offence punishable under Sections 61, 318(4), 319(2), 238, of the Bharatiya Nyaya Sanhita 2023 (BNS) and Section 66(C), 66(D) of the Information Technology Act, 2000, be released on P.B. of Rs.30,000/- with one or two surety /sureties in the like amount, on following terms and conditions;

Conditions

- (i) The accused/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 any police officer.
 - (ii) He shall attend each and every date of the trial, failing which his bail shall be treated as cancelled, without any further reference to this Court.
 - (iii) The accused not to indulge in any illegal activities or in committing the offence of like nature.
 - (iv) He shall mark his presence before Cyber Police Station, Western Division, Bandra Mumbai (Respondent) on first Thursday of every month between 11.00 a.m to 01.00 p.m except on the days when he would be required to attend the Court for a period of three years or till the conclusion of trial, whichever is earlier.
 - (v) He shall surrender his passport, if any, to the Investigating Officer / Respondent, immediately.
 - (vi) He shall not leave India *sans* prior permission of the Court.
 - (vii) The accused and surety shall submit his residential addresses and contact details to the respondent and this Court immediately after his release. In case change in residential address or contact details, the same shall be forthwith informed to the trial Court and the respondent.
3. Provisional cash bail in sum of Rs.20,000/- in lieu of surety stands granted for a period of six weeks.
 4. Bail before jurisdictional Court.
 5. Bail Application No. 83 of 2026 is disposed of accordingly.



Date : 28/01/2026

(Amit Anant Laulkar)
Additional Sessions Judge
City Civil & Sessions Court,
Gr. Bombay

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

Upload Date	Upload Time	Name of Stenographer
29/01/2026	3.24 p.m.	J. S. Chavan

Name of the Judge (With Court Room No.)	Amit A. Laulkar (CR 30) THE ADDL. SESSIONS JUDGE
Date of Pronouncement of JUDGEMENT /ORDER	28/01/2026
JUDGEMENT /ORDER signed by P.O. on	28/01/2026
JUDGEMENT /ORDER uploaded on	29/01/2026