

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 184 OF 2022

Sameer Ahmed Hussain Khan @
Rizwan Khan ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Pramod G. Kathane a/w Mr. Anjaykumar Kori, Mr.
Samyak A. Bhatkar, Ms. Pooja V. Kamble, for the Applicant.
Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 19, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No. 42 of 2021 dated 16/08/2021 registered with Cyber Police Station, South region, for the offence punishable under sections 419, 420, 34 of the Indian Penal Code, 1860 ("IPC", for short) and sections 43, 66, 66(c), 66(d) of the Information Technology Act, 2000.

3. The incident is dated 14/08/2021 registered with the Cyber Police Station, South Mumbai in respect of C.R.No. 42 of 2021. The prosecution case is that the applicant along with other co-accused conspired to commit online fraud thereby unauthorisedly hacking deceased persons' bank account in bank of Bahrain and Kuwait, Branch at Mumbai and by fraudulent transaction transferred an amount of Rs. 5,09,78,742/- from the account of deceased persons particularly Shamshad Hussain and Prithviraj Sethi and Jagdish Sodah. On the basis of FIR lodged by the informant -Vice President of the said bank, applicant-Sameer, co-accused- Prabhansu and Dinesh came to be arrested.

4. It is the contention of the learned counsel for the applicant that the main accused is one Mr. Ravi Raje who is accused no.1. It is contended that the applicant is not the beneficiary of the said amount. In the account of the applicant, an amount of Rs. 45 lakhs was deposited. However, the same was transferred by NEFT. According to the applicant account is opened at the instance of Ismail who has recently been arrested. An amount of Rs. 1 lakh

came to the credit of the application.

5. Be that as it may, the offence which alleged against the applicant is punishable with maximum sentence of imprisonment upto 7 years. The applicant was arrested on 17/08/2021 and is now in custody for more than 1 year and 5 months. The charge-sheet has been filed. The investigation is complete. There is no possibility of trial concluding any time soon. Furthermore, co-accused Dinesh and Prabhansu have been granted bail by the Sessions Court and the role of the applicant is more or less similar to that of those co-accused.

6. Considering that the trial will take a long time to conclude and charge-sheet has been filed, the applicant can be enlarged on bail. There is a criminal antecedent against the applicant where he was charged for the offence under section 302 of the IPC. By the judgment and order dated 20/01/2007, the applicant came to be acquitted. The applicant is therefore enlarged on bail. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant – Sameer Ahmed Hussain Khan @ Rizwan Khan in connection with C.R. No. 42 of 2021 registered with Cyber Police Station, South Mumbai shall be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change

(f) The applicant shall report to the Investigating Officer twice a month i.e. on 1st and 3rd Monday of every month between 11.00 am and 1.00 pm.

7. The application is disposed of.

(M. S. KARNIK, J.)