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

BAIL APPLICATION NO. 2949 OF 2026

Mr. Vinayak Dnyaneshwar Marathe	.. Applicant
Versus	
State of Maharashtra	.. Respondent

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- Mr. Niranjan Mundargi a/w. Mr. Namit Khandage, Ms. Keral Mehta i/b. Jinal Garasia, Advocates for Applicant.
 - Mr. Amit A. Palkat, APP for Respondent – State.
 - Mr. Chetan More, API - EOW, Pune.
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CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 09, 2026.

P.C.:

- 1.** Heard Mr. Mundargi, learned Advocate for Applicant and Mr. Palkar, learned APP for Respondent – State.
- 2.** Present Application is filed under Section 483 of Bharatiya Magarik Suraksha Sanhita, 2023 (BNSS) seeking enlargement on bail in respect of FIR being CR No.118 of 2025 registered at Shivajinagar Police Station, Pune for the offences punishable under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 (MPID Act) and Sections 21 and 23 of the Banning of Unregulated Deposit Schemes Act, 2019 along with Sections 111, 3(5), 61(2), 229, 316(5) and 318(4) of the Bharatiya Nyaya Sanhita, 2023 (BNS) against Applicant and other accused persons.

3. Briefly stated, Complainant is one Amit Chandrashekar Borase. One Anand Ramrao Raut informed Complainant that his acquaintance one Navnath Awtade was a stock broker and invested monies of numerous investors in the share market and delivered high returns. In September 2023, Complainant along with Anand Raut went to the office of Navnath Awtade and he informed Complainant that he along with 7 other persons were directors in a stock broking firm namely Infinite Beacon India Pvt. Ltd. bearing SEBI Registration No.00003119383 and Bombay Stock Exchange Registration No.6818 which was an expert in share trading and investments earning returns upto 6% to 8% per month. Navnath Awtade informed Complainant that he could check details of his investment on Tredz Investment Pvt. Ltd. app and on the 30th of every month he could withdraw his investment which would then be credited to his account before the 10th day of the following month.

3.1. Complaint registered himself on Tredz Investment Pvt. Ltd. app and invested Rs.1,00,000/- on 03.10.2023 and Rs.11,00,000/- 24.11.2026. On 02.07.2024, Complainant subsequently withdrew amounts of Rs.11,98,266 and Rs.18,50,000/-. Thereafter, Complainant invested Rs.2,75,50,000/- between 21.02.2024 and 30.07.2024. In April 2025, Complainant was in need of funds and attempted to withdraw his investment with interest however the same was not credited within the promised period. Complainant attempted to

contact Navnath Awtade and other directors however he could not do so. Complainant conducted inquiries into Navnath Awtade and Infinte Beacon Pvt. Ltd. and realised that they had duped him alongwith other investors by luring them to invest sums of money and receive high returns. Therefore, Complainant filed present complaint against Applicant and 7 other persons. Applicant filed Bail Application No.706 of 2026 before the Additional Sessions Judge, Pune which came to be rejected by Order dated 08.06.2026. Hence present Application.

4. Mr. Mundargi, learned Advocate for Applicant would submit that Applicant is falsely implicated in the present case, that there are no allegations against Complainant, that there is no involvement of Applicant in the present crime, that he is not concerned with the functioning of Tredz Investment Pvt. Ltd., that he did not receive any amount in his bank account and that there is a delay of more than 4 months in filing the FIR.

4.1. He would submit that Applicant was one of the Directors of Infinite Beacon Pvt. Ltd. which was incorporated on 20.07.2023. He would submit that Applicant resigned as Director from Infinite Beacon Pvt. Ltd. on 22.02.2025. He would submit that Infinite Beacon Pvt. Ltd. has not conducted any transaction since it was incorporated which is manifest from perusal of the Registrar of Companies records. He would submit that Complainant failed to mention name of Applicant in the

FIR and that all investments were made at the behest of Navnath Awtade only.

4.2. He would submit that Applicant along with his family has invested a sum of Rs.83,06,905/- in Infinite Beacon Pvt. Ltd. which was not returned to them and his wife filed a complaint with Pimpri Chinchwad Police Station on 20.07.2025. He would submit that chargesheet is filed and investigation is over hence there can be no opportunity for Applicant to tamper with evidence and further detention of Application is unwarranted. He would submit that Applicant was not acting as an agent of the Company or any investor and therefore Section 316(4) of BNS is not applicable. He would submit that Police authorities have seized immovable property worth Rs.3.5 crores owned by Applicant hence there is no chance of Applicant absconding as he has deep roots in Society.

4.3. He would submit that there are more that 500 witnesses to be examined as per the chargesheet and hence there is no possibility of early conclusion of trial and further detention of Application will amount to pre-trial detention. He would submit that Application is ready and willing to deposit 50% of amount alleged to have received by him in this Court. He would urge me to enlarge Applicant on bail on any condition that this Court deems necessary to impose.

5. Mr. Palkar, learned APP for Respondent State would submit

that Applicant and other accused persons played a large scale fraud on investors by opening multiple companies and luring unsuspecting investors with high returns. He would submit that Applicant along with other accused persons appointed 514 franchisees and 13577 agents to collect monies from various investors and that large sums of money transfers are transferred between various accounts. He would submit that nearly 520 investors were duped amounting to Rs.294.34 crores. He would submit that Applicant was director of Infinite Beacon Pvt. Ltd. and he received Rs.4.59 crores into his HDFC and ICICI Bank accounts from Infinite Beacon Pvt. Ltd. which are investments deposited by investors being diverted to Applicant's bank account. He would submit that all co-accused persons are absconding and hence there is all likelihood that Applicant may jump bail. He would urge this Court to deny grant of bail to Applicant on the basis of these submissions.

6. I have heard the learned Advocates appearing for the parties and with their able assistance, perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

7. Perusal of the material on record would show that Complainant alongwith other investors invested in Infinite Beacon Pvt. Ltd. since 2023 and were getting the benefits therefrom regularly.

Prosecution case is that the investors were lured and induced by the Applicant and other accused persons to invest into the schemes floated by their Companies by promising high rates of interest. Hence it can be deduced that the case of prosecution at the highest can be for cheating under Section 318(4) of BNS.

8. It is trite law that offence of cheating and criminal breach of trust cannot co-exist simultaneously. In this context reference is made to a decision of the Supreme Court in the case of *Delhi Race Club (1940) Ltd. and Ors. Vs. State of Uttar Pradesh and Anr.*¹ wherein in paragraph Nos.24 to 30 the Court has laid down the distinction between offence of cheating and criminal breach of trust. Paragraph Nos. 24 to 30 read thus:-

"DIFFERENCE BETWEEN CRIMINAL BREACH OF TRUST AND CHEATING

24. *This Court in its decision in S.W. Palanitkar & Ors. v. State of Bihar & Anr. reported in (2002) 1 SCC 241 expounded the difference in the ingredients required for constituting an offence of criminal breach of trust (Section 406 IPC) viz-a-viz the offence of cheating (Section 420). The relevant observations read as under: -*

"9. The ingredients in order to constitute a criminal breach of trust are: (i) entrusting a person with property or with any dominion over property, (ii) that person entrusted (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or wilfully suffering any other person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.

10. The ingredients of an offence of cheating are: (i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii) (a) the person so deceived should be

¹ Criminal Appeal No. 3114 of 2024 decided on 23.08.2024

induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) in cases covered by (ii)(b), the act of omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.”

25. *What can be discerned from the above is that the offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients.*

In order to constitute a criminal breach of trust (Section 406 IPC): -

1) There must be entrustment with person for property or dominion over the property, and

2) The person entrusted: -

a) dishonestly misappropriated or converted property to his own use, or

b) dishonestly used or disposed of the property or willfully suffers any other person so to do in violation of:

i. any direction of law prescribing the method in which the trust is discharged; or

ii. legal contract touching the discharge of trust (see: S.W.P. Palanikar (supra).

Similarly, in respect of an offence under Section 420 IPC, the essential ingredients are: -

1) deception of any person, either by making a false or misleading representation or by other action or by omission;

2) fraudulently or dishonestly inducing any person to deliver any property, or

3) the consent that any persons shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see: Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) Cr.L.J. 3462 (SC))

26. *Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception.*

27. *In our view, the plain reading of the complaint fails to spell out any of the aforesaid ingredients noted above. We may only say, with a view to clear a serious misconception of law in the mind of the police as well as the courts below, that if it is a case of the complainant that offence of criminal breach of trust as defined under Section 405 of IPC, punishable under Section 406 of IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the*

offence of cheating as defined and explained in Section 415 of the IPC, punishable under Section 420 of the IPC.

28. *Every act of breach of trust may not result in a penal offence of criminal breach of trust unless there is evidence of manipulating act of fraudulent misappropriation. An act of breach of trust involves a civil wrong in respect of which the person may seek his remedy for damages in civil courts but, any breach of trust with a mens rea, gives rise to a criminal prosecution as well. It has been held in Hari Prasad Chamaria v. Bishun Kumar Surekha & Ors., reported in (1973) 2 SCC 823 as under:*

“4. We have heard Mr. Maheshwari on behalf of the appellant and are of the opinion that no case has been made out against the respondents under Section 420 Penal Code, 1860. For the purpose of the present appeal, we would assume that the various allegations of fact which have been made in the complaint by the appellant are correct. Even after making that allowance, we find that the complaint does not disclose the commission of any offence on the part of the respondents under Section 420 Penal Code, 1860. There is nothing in the complaint to show that the respondents had dishonest or fraudulent intention at the time the appellant parted with Rs. 35,000/- There is also nothing to indicate that the respondents induced the appellant to pay them Rs. 35,000/- by deceiving him. It is further not the case of the appellant that a representation was made, the respondents knew the same to be false. The fact that the respondents subsequently did not abide by their commitment that they would show the appellant to be the proprietor of Drang Transport Corporation and would also render accounts to him in the month of December might create civil liability on the respondents for the offence of cheating.”

29. *To put it in other words, the case of cheating and dishonest intention starts with the very inception of the transaction. But in the case of criminal breach of trust, a person who comes into possession of the movable property and receives it legally, but illegally retains it or converts it to his own use against the terms of the contract, then the question is, in a case like this, whether the retention is with dishonest intention or not, whether the retention involves criminal breach of trust or only a civil liability would depend upon the facts of each case.*

30. *The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed.*

Therefore, it is this intention, which is the gist of the offence. Whereas, for the criminal breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership' of it must be of some other person. The accused must hold that property on trust of such other person. Although the offence, i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept. There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e., since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously.”

9. From the above it can be deduced that the grievance of Complainant in the present case would at the most lie for offence of cheating under Section 318(4) BNS and not criminal breach of trust under Section 316(5) of BNS because of the alleged dishonest intention of Applicant and other accused persons to lure investors and dupe them with investment schemes promising high returns. It is prosecution's case that Applicant has alleged diverted funds into certain his bank account and thereby allegedly received undue benefit from the investments made by the investors.

10. It is seen that the role attributed to Applicant is that he was employed as marketing agent in Infinite Beacon Pvt. Ltd. where he introduced schemes for investment to potential investors and earned commission from those who invested their monies into Infinite Beacon

Pvt. Ltd.. However *prima facie* there is no material on record to show his direct complicity in the crime. It is further seen that the Investigating Officer attached assets valued at Rs.3.72 crores belonging to Applicant. Chargesheet is filed before the Trial Court and it lays out more than 500 witnesses to be examined. Trial has commenced and is at the stage of framing of charge therefore there is no possibility of the Trial concluding the near future. In this regard, support is drawn from the decision of the Supreme Court in the case of ***Sanjay Chandra Vs. Central Bureau of Investigation***² wherein the Court has held that in economic offences while considering an application for bail, the nature of charge may be relevant but at the same the punishment to which the party may be liable, if convicted is also a significant aspect and therefore both, the seriousness of the charge and the severity of the punishment should be taken into consideration for arriving at decision of grant of bail. It further observed that deprivation of liberty must be considered a punishment unless it is absolutely necessary in the interest of justice and that object of bail is merely to secure appearance of accused at the trial.

11. In view of the above *prima facie* observations and facts delineated herein above, Applicant before me is entitled for bail. Bail Application is allowed on the following terms and conditions:-

(i) Applicant - Vinayak Dnyaneshwar Marathe is directed

² (2012) 1 SCC 40

to be released on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

- (ii) Applicant is permitted to furnish provisional cash bail of Rs.50,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.50,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) Applicant shall report to the Investigating Officer of the concerned Police Station once every month on the third Sunday between 10:00 a.m. to 12:00 p.m. for the first one year and thereafter as and when called;
- (iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (v) Applicant shall not leave the Country without prior permission of the Trial Court;
- (vi) Applicant shall not influence any of the witnesses or

tamper with the evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time; and

(viii) Any infraction of the above conditions shall entail the prosecution to seek cancellation of this order.

12. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall be adjudicated on the basis of the evidence uninfluenced by the present order and strictly in accordance with law. It is also clarified that the common order is for the sake of convenience and Applicant shall not be adversely impacted by the conduct of the other Applicant including but not limited to infringement of bail conditions.

13. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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