

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

BAIL APPLICATION NO.1611 OF 2024

Mahesh Purshottam Chauhan

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Abhishek Yende i/b Mr. Sagar Paspohe, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent-State.

Mr. S. M. Khandekar, A.P.I.-Chandan Nagar Police Station, District-Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: MAY 06, 2024

P. C.

1. Heard Mr. Yende, learned Counsel for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.

2. This is the second Bail Application. The first Bail Application was filed before this Court before filing of the Charge-sheet and therefore the same was allowed to be withdrawn with liberty to file a fresh Bail Application before the learned Trial Court after filing of the Charge-sheet. The learned Trial Court by Order dated 16th March 2024 rejected the Bail Application after filing of the Charge-sheet.

3. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:

1	C.R. No.	514 of 2023
2	Date of registration of F.I.R.	01/11/2023

3	Name of Police Station	Chandan Nagar, District-Pune
4	Sections invoked	120-B, 406, 419 & 420 of the <i>I.P.C.</i> , 1860; 3 & 4 of the <i>M.P.I.D. Act, 1999</i> .
5	Date of incident	01/09/2021 to 31/10/2023
6	Date of arrest	13/12/2024
7	Date of filing Charge-sheet	21/02/2024

4. As per the prosecution case, there are a total of five accused persons. As per the prosecution case, Accused No.1 and Accused No.3 were the directors of a Company incorporated as '*Ftrade Sales Agency Marketing Private Limited*' ("said company"). The Accused No.1 has a majority stake in the said company. The F.I.R. states that it was assured to the Informant that an interest at the rate of 15% per month will be paid after a period of 14 months and that 30% of the invested amount will be invested in the Share Market and the remaining 70% will be retained by the said company as a security deposit. It is further stated that the Applicant invested a cumulative amount of Rs.30,00,000/- over 2021-2022, out of which Rs.25,00,000/- were returned in tranches but the remaining amount of Rs.5,00,000/- has not been returned to the Informant. It is stated that there are about 89 investors who have been misled, duped, and cheated by the Applicant and other Accused to the tune of a cumulative amount of Rs.3,39,12,637/-.

5. Perusal of the record shows that the only role attributed to the present Applicant is that he was handling the affairs of the said

company at its office in Mumbai and that he was providing information about the investment scheme to potential investors. The directors are Accused Nos.1 and 3. Both these directors are absconding. Accused No.2 at the relevant time was married to Accused No.1. The marriage between Accused No.1 and Accused No.2 was dissolved by Order and Decree dated 6th April 2022. The present F.I.R. was lodged on 1st November 2023. Accused No.4 is the father of Accused No.2. It is significant to note that only two Accused have been arrested, namely Accused No.2 and Accused No.4 i.e. daughter and father.

6. It is the contention of Mr. Yende, learned Counsel for the Applicant that the Applicant is neither aware of nor involved with the transactions which are the subject matter of the offence in question. He submitted that an aggregate amount of Rs.4,25,000/- was deposited in his bank account and that the Applicant has refunded the said amount to the Accused No.1. He submitted that in fact the amount which was deposited is the maintenance amount paid to the Accused No.2 i.e. his daughter and that he is not involved in the offence in question. He submitted that the Applicant is suffering from 'Deep Vein Thrombosis (DVT) with Varicose Veins in left lower limb since 2009 and operated for DVT in 2010'. He submitted that the Applicant requires extensive medical care for treating the said medical condition and that the same is not possible if the Applicant is incarcerated. He submitted that as far as

the Applicant is concerned, investigation has been completed and the Charge-sheet has been filed and therefore the Bail Application be allowed.

7. On the other hand, Ms. Kaushik, learned APP strongly opposed the Bail Application. She submitted that the present Applicant has played a major and significant role in the offence in question. She submitted that the Applicant is a beneficiary of an amount of Rs.3,87,000/- and therefore the Bail Application be rejected.

8. Perusal of the record shows that the fraud is to the tune of Rs.3,39,12,637/-. Accused Nos.1 and 3 are the directors of the said company. Both of them are absconding. Accused No.5 is also absconding. The only arrested accused persons are Accused Nos.2 and 3. The present Applicant is the father of Accused No.2. Accused No.2 was granted bail by Order dated 16th March 2024. As far as the present Applicant is concerned, investigation has been completed and the Charge-sheet has been filed. Even as per the prosecution case, involvement of the present Applicant, if any, is to the tune of Rs.3,87,000/-. Learned Counsel for the Applicant has submitted that the Applicant had already refunded the said amount to the Accused No.1. Insofar as the Medical Report dated 24th April 2024 submitted by Chief Medical Officer, Yerwada Central Prison, Pune-06, it shows the presence of a small infected wound of about 1*2 c.m. on front of left lower limb

above ankle joint and that the skin around the wound is slightly blackened. It is mentioned in the Medical Report that there is a left lower limb wound and the same is a known case of DVT. Medical Advice mentioned that both lower limbs should be kept elevated during sleep and that the hygiene of the patient be maintained well. Thus, it is clear that as per the medical advice, the precautions and care required for the Applicant for treating the said medical condition cannot be provided in prison. In any case, involvement of the present Applicant in the offence in question is insignificant. The main accused persons are absconding.

9. The Applicant does not have any criminal antecedents.
10. The Applicant does not appear to be at risk of flight.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
12. In view thereof, the following order:

ORDER

- (a) The Applicant - Mahesh Purshottam Chauhan be released on bail in connection with C.R. No.514 of 2023 registered with the Chandan Nagar Police Station, District – Pune on his furnishing P.R. Bond of Rs.25,000/- with one or two local sureties in the like amount.
- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

- (c) The Applicant shall report to the Chandan Nagar Police Station, District – Pune as and when called, until the conclusion of the trial.
- (d) The 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 such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

[MADHAV J. JAMDAR, J.]