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

## BAIL APPLICATION NO. 691 OF 2024

Vishwajit @ Sanjay Prabhakar Chandorkar ...Applicant

vs.

The State of Maharashtra ...Respondents

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| Ms. Misbaah Solkar a/w Mr. Sejal Jain | Advocate for the Applicant in BA 691 of 2024 |
| Mr. Siddhesh Bhole a/w Ms. Anushree Koparkar i/by SVishwajit SB Legal and Advisory | Advocate for the first informant |
| Mr. Ashok S. Gawai | APP for Respondent-State |
| M. Jahangir Ali Sayed | EOW Thane City Present |

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**CORAM : S. M. MODAK, J.**

**DATE : 19th DECEMBER 2024**

**<u>P. C.</u> :-**

**1.** Heard learned Advocate Ms. Misbaah Solkar for the Applicant and learned APP Shri Gawai and learned Advocate Shri Bhole for the first informant.

**2.** I have gone through the papers, charge-sheet annexed to the application and the affidavit filed by API Jahangir Ali Sayed attached to Economic Offences Wing. In fact both the Parties were heard and they have finished their arguments. However, this application was not decided because Anticipatory Bail Application No. 68 of 2023 of co-accused-Suni Sarode is pending. On 13.12.2024, when this Court has directed the prosecution to file an affidavit in Anticipatory bail application for the reasons stated therein, learned APP has expressed desire to file affidavit in this bail application also. Accordingly, it was filed. I have gone through it.

**3.** Learned APP on the basis of the affidavit has argued why bail should not be granted to the Applicant-Vishwajit .

**4.** Whereas learned Advocate Ms. Solkar reiterated her case pleaded for grant of bail.

**5.** Learned Advocate Shri Bhole for the first informant has already advanced the arguments. His one of the contention was when accused-Sunil Sarode has transferred the amount of Rs. 1,27,00,000/-, Applicant-Vishwajit need to be put condition to deposit this amount.

**6.** Admittedly, neither in the F.I.R. lodged with Kolsewadi Police station on 26.11.2020 at CR No. 669 of 2020 nor in the first charge-sheet submitted on 26.11.2020, the present Applicant is named as an accused person. Even in the said charge-sheet, he is not named as wanted and as an absconded accused. The said charge-sheet was submitted by EOW Crime branch Thane for offence punishable under Sections 420, 406, 409 read with 34 of the Indian Penal Code and under Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors Act. One Manisha Sarode and Sunil Sarode are the two accused persons named therein.

**7.** The case pleaded in the charge-sheet is as follows:-

Accused-Sunil and Manisha were running the business of investment in the name and style as 'Ultra Life Care Private Limited'. Either directly or through middleman, they were luring and inducing various investors for investment. It was revealed during investigation that they have accepted the investment in the name of the said Company, however, they have also transferred some of amounts to the different entities. Investors were paid returns for the certain duration. They could not adhere to their promises. One of such investor by name Rajendra Daund lodged the complaint with Kolsewadi Police Station and offence is registered.

**8.** The involvement of this Applicant is disclosed in further investigation, when Economic Offence Wing has recorded the statement of one Rupali Anil Birari Patil. She told the Police that she was informed by one Satish B. Patil and Dineshan K. P. about payment of Rs. 1,25,00,000/- by Sunil Sarode to this Applicant-Vishwajit. On that basis, the Police have arrested the present Applicant on 26.10.2023.

**9.** During investigation, the Police have collected the bank entries from the Axis bank to support the transfer of the said amount by accused-Sunil in favour of Vishwajit. According to the prosecution, this is nothing but share of part of the misappropriated amount by accused-Sunil in favour of this Applicant-Vishwajit.

**10.** Whereas it is case of the present Applicant that this is not part of the misappropriated amount, but there was commercial transaction in between him and accused-Sunil. Accused-Sunil was in need of bank loan. Applicant-Vishwajit assured him to obtain loan from ICICI Bank and that is why accused-Sunil has parted away this amount to the Applicant-Vishwajit for services assured. To buttress his contention, learned Advocate Ms. Solkar also relied upon the offence registered with Satpur Police Station at the instance of the accused-Sunil.

**11.** While deciding this bail application, this Court is not supposed to ascertain what are the materials in that offence. The present Applicant has also filed an anticipatory bail application in this Court, and he is on interim bail and this application is pending.

**12.** According to learned APP there was some written understanding in between the accused-Sunil and accused-Vishwajit about return of the said amount. The Applicant-Vishwajit has agreed to return that amount to Sunil, however it is part of the investigation of Satpur Police Station.

**13.** Learned Advocate Ms. Solkar stated that except the statement of Rupali Patil, there are no other statements either of the investors or of other persons suggesting that any point of time, the Applicant-Vishwajit was involved in the transaction of luring investors or assuring them of good returns.

**14.** Learned APP has invited my attention to the **whats app messages**. They are on page nos. 139 to 150. My attention is invited to one of such messages on page no. 149 sent by Applicant-Vishwajit to the Investors. I have read that message. The Applicant-Vishwajit has admitted about delay in payment, and he has assured of arranging a meeting on Zoom for discussing the repayment. He has also expressed his gratitude for co-operation and patience shown by the investors.

**15.** According to learned APP this shows involvement of this Applicant in the transaction wherein almost 800 investors were cheated and amount misappropriated goes upto Rs. 16,23,40,000/-. According to learned Advocate Ms. Solkar this is not the original message sent to her client, but this is forwarded message.

**16.** Para no. 4 of the affidavit of I.O. mentions that the present Applicant has formed a firm by name and style as '*Worldwin Vision*', on page no. 318 and in fact the firm is beneficiary of the misappropriated amount. It is also averred the Applicant used to call himself as loan consultant. During the house search panchnama, some of the documents are seized. The description is given in para no. 6. These are the documents, they do not throw any light about the investigation of the present offence.

**17.** There is one offence registered at Amboli Police Station for cheating and forgery. The allegation in that offence against the Applicant is he tried to obtain loan on the basis of the false and fabricated documents, and it was registered by the Bank Manager. Para no. 9 also mentions during custodial interrogation, the Applicant disclosed that he gave cash amount of Rs. 17 Lakhs to one Iqbal Merchant, however, he died during Covid.

**18.** The materials against the Applicant is quoted above and contents from affidavit are also referred above. Even though it may be true, there is separate offence registered against him at Amboli Police Station, we are concerned what are the materials collected in the present offence. Admittedly, any amount is not seized at his instance. The prosecution can rely upon the materials showing the involvement in the present offence when the trial will be conducted, but issue is whether the Applicant needs to be detained in custody. Yet trial has not started. He is behind bar since 2023. There cannot be pre-trial detention by way of punishment. Just because allegations are serious it does not mean that he should be detained behind bar. On the basis of above materials, I do not think, the request for bail need to be rejected.

**19.** Considering all the factors, case for bail is made out. Hence the following Order:-

**ORDER**

(i) Bail application is allowed.

(ii) Applicant-Vishwajit @ Sanjay Prabhakar Chandorkar arrested in connection with C.R. No. 669 of 2020 registered with Kolsewadi Police Station for offences punishable under Sections 420, 406, 409 read with 34 of the Indian Penal Code and Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors Act 1999 be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/- (Rupees Fifty thousand only)

(iii) After release, Applicant is directed to give attendance to the office of Economic Offence Wing, Crime Branch, Thane on first Monday of months of January, April and October from 10.00 a.m. to 12.00 noon until completion of the trial.

(iv) Applicant shall not threaten the prosecution witnesses.

(v) The Applicant shall regularly attend the proceedings before the trial Court.

(vi) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail after notice.

**20.** Accordingly, bail application is disposed of.

**[S. M. MODAK, J.]**