



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (BA) NO.1044 OF 2024**

Vijaylakshmi Jagmohan Kathait  
Vs.

State of Maharashtra, (through Police Inspector) Police Station Karanja  
District Wardha

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

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Mr. Atharva S. Manohar, Counsel for the applicant.  
Ms. Shamshi Haider, APP for non-applicant /State.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 17/12/2024**

1. The applicant came to be arrested in connection with Crime No.257/2019 registered with Police Station, Karanja, District Wardha for the offences punishable under Sections 406, 409, 420 and 120-B read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and under Sections 21, 22, 23, 24 and 25 of the Banning of unregulated Deposit Schemes Act, 2019. The applicant is arrested on 08.05.2022 and since then she is behind bar.

2. The crime is registered on the basis of report lodged by Varsha Ashok Darokar alleging that the four accused persons namely, Parth Sarthi, Amit

Kondev Chaudhary, Pramod Kukdey, Devendra Nagpure working at Karanja Branch of company J.S.V. Developers India Ltd. and Jai Vinayak Buildcorp Limited. The complainant was working as agent for the said company and the accused persons sought investment from the complainant as well as the other investors and the investors have invested the amount in R.D. as well as in F.D., however, they have not received either the returns or the money invested by them. The reports were lodged against the present applicant. After investigation, the charge-sheet was filed against the present applicant. During the investigation, it reveals that the complainant who was working as agent for collecting money of R.D. and F.D. and she worked for the company namely, J.S.V. Developers India Ltd. and Jai Vinayak Buildcorp Limited and the applicant alleged to be the Chairman of the said company. The complainant collected money of R.D. and F.D. invested in the companies formed by the accused who lured the investors with attractive interest returns. However, after the lapse of maturity period, the accused failed to return the money of innocent investors along with the interest. Thus, the accused gave false promises and duped the investors to the tune of Rs.2,49,28,240/-. After completion of the investigation, the charge-sheet is filed.

3. Heard learned Counsel Mr. Manohar for the applicant. He submitted that in fact, the applicant

was not connected with day-to-day activities of the company, but ignoring the other office bearers of the said company, the applicant was made an accused. He submitted that as far as the involvement of the present applicant for luring the investors, there is absolutely no material, but now the applicant is languishing in jail since the date of her arrest, there is no progress in the trial, and even not once she has produced before the Court and there is delay in trial. He placed on record the copies of the Roznama which shows that the present applicant was not produced before the Court at any point of time and no charge is framed and the trial is held up. He submitted that the applicant cannot be kept behind the bar for an indefinite period. There are no efforts either by the Court or the prosecuting agency to secure the presence of the present applicant before the Court and to proceed with the trial. He submitted that the right enshrined under Article 21 of the Consitution of India of a speedy trial is affected and on that ground also the applicant be released on bail. In support of his contention, he placed reliance on **Javed Gulam Nabi Shaikh vs. State of Maharashtra and another** reported in **(2024) 9 SCC 813** and **Manish Sisodia Vs. Directorate of Enforcement in Criminal Appeal No. \_\_\_\_ of 2024 [Arising out of SLP (Criminal) No.8781 of 2024]**. He submitted that in the case of **Manish Sisodia** (supra) the aspect of grave economic offence was also considered by the Hon'ble Apex Court. Thus,

considering all these aspects, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the applicant is involved in economic offence of huge magnitude, if she is released on bail, there is likelihood of fleeing away. She further submitted there are in all 11 offences are registered against the present applicant. Considering all these aspects, the application deserves to be rejected.

5. After hearing both the sides and on perusal of the investigation papers, it reveals that total 630 investors have invested the amount and they have neither received their principal amount nor they have received any returns. They were lured on the promise of handsome returns on their investment. The statements of various investors are recorded. Thus, as far as the merit of the matter is concerned, the involvement of the present applicant being the Chairman of the said company revealed. However, the application is also filed on the ground of delay in trial. This aspect of the involvement in grave economic offence is considered by the Apex Court in the case of **P. Chidambaram vs. Directorate of Enforcement, (2020) 13 SCC 791** wherein the appellant was granted bail after being kept in custody for around 49 days. It is submitted by learned Counsel that in **Sanjay Chandra v. Central Bureau**

**of Investigation (2012) 1 SCC 40** wherein also the allegation of grave economic offence was considered and it is held that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case. Ultimately, the consideration has to be made on a case to case basis, on the facts. The primary object is to secure the presence of the accused to stand trial. He further submitted that there is nothing on record to show that the applicant herein was at a flight risk or there was any possibility of tampering with the evidence or influencing the witnesses.

6. As far as the aspect of the delay in trial is concerned, which is consistently considered by the Hon'ble Apex Court in catena of decisions including the decision of **Javed Gulam Nabi Shaikh** (supra) wherein the Hon'ble Apex Court has considered that object of bail held to secure the attendance of accused at the trial therefore, proper test needs to be applied by the Court whether it is probable that the party will appear to take his trial. The aspect of the Article 21 of the Constitution of India was also considered by the Hon'ble Apex Court and held that "if the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the

ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

7. In the case of **Manish Sisodia** (referred supra) wherein also the Hon’ble Apex Court has considered the prolonged period of incarceration suffered by the appellant therein and by referring the Article 21 of the Constitution of India it is held that “the Right to Life and Personal Liberty is the most sacrosanct fundamental right guaranteed under Articles 20, 21 and 22 of the Constitution of India. Any attempt to encroach upon this fundamental right has been frowned upon by this Court in a catena of decisions and by referring the judgment of **Roy V.D. Vs. State of Kerala** it is observed “The life and liberty of an individual is so sacrosanct that it cannot be allowed to be interfered with except under the authority of law. It is a principle which has been recognised and applied in all civilised countries. In our Constitution Article 21 guarantees protection of life and personal liberty not only to citizens of India but also to aliens.”

8. By referring the judgment of **Javed Gulam Nabi Shaikh** (supra) and various judgments the Hon’ble Apex Court further considered that “if the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy

trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

9. Considering the consistent decisions of the Hon’ble Apex Court and considering the fact that though the applicant is arrested on 08.05.2022, no steps are taken either by the prosecution or by the Court to secure the presence of the applicant before the Court for the framing of the charge. Admittedly, the applicant cannot be kept behind for an indefinite period and therefore, the applicant has made out a case for grant of bail. In view of that the application is allowed. Accordingly, I proceed to pass following order:

**ORDER.**

(i) The application is allowed.

(ii) The applicant **Vijaylakshmi Jagmohan Kathait** shall be released on bail in connection with Crime No.257/2019 registered with Police Station, Karanja, District Wardha for the offences punishable under Sections 406, 409, 420 and 120-B read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 and under Sections 21, 22, 23, 24 and 25 of the Banning of unregulated Deposit Schemes Act, 2019, on executing PR Bond of Rs.1,00,000/- with one solvent surety in the like amount.

(iii) The applicant shall surrender her passport if she is having before the Special Court.

(iv) The applicant shall not induce, threat of promise any witnesses who are acquainted with the facts of the case.

(v) The applicant shall attend the Bhopal City Police Station twice in a month on 1<sup>st</sup> and 15<sup>th</sup> of every month and the concerned Police Station Officer shall record her presence.

(vi) The applicant shall attend the proceeding before the Special Court without seeking any exemption unless there are exceptional circumstances.

(vii) The applicant shall also furnish her mobile number and address along with address proof before the Special Court.

(viii) The applicant shall also furnish the names of two relatives with their address and address proof before the Special Court.

The application is disposed of.

**(URMILA JOSHI-PHALKE, J.)**