IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1455 OF 2025

AMBADAS ABAJI MANKAPE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Satej S. Jadhav
APP for Respondent-State : Special PP Ms. Komal Kandherkar a/w Mr. Amol Andhale and Mr. Vishal Andhale

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WITH

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CORAM : SACHIN S. DESHMUKH, J.
Date : 23rd December, 2025

ORDER :-

Bail Application No. 1455 of 2025

1. By way of this application, the applicant has approached this Court seeking regular bail in connection with FIR dated 11.07.2023 bearing Crime No. 455 of 2023 registered with

Cidco Police Station, Aurangabad for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120(b) and 217 read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

Bail Application No. 1456 of 2025

2. By way of this application, the applicant has approached this Court seeking regular bail in connection with FIR dated 11.07.2023 bearing Crime No. 454 of 2023 registered with Cidco Police Station, Aurangabad for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 120(b) and 217 read with 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. Since both the FIRs pertain to the same offence and arise out of the same alleged incident and both involve the applicant as an accused, the bail applications are taken up together for hearing and are being decided by way of this common order.

4. The applicant/Accused no.1, the Chairman of Adarsh

Nagari Sahakari Path Sansthan Limited. The applicant along with co-accused persons, acting with a common intention, prepared fictitious loan files in the names of various borrowers to distribute account credit loans without proper collateral security. In this process, they opened multiple saving accounts for these fictitious borrowers at the bank and deposited the loan amounts. They then created fraudulent records as an "eye-wash," making it appear the borrowers had withdrawn the funds. The money, however, was actually diverted to other accounts belonging to the present applicant's relatives. Adopting this modus operandi, misappropriated a huge amount totaling Rs. 99,07,90,579/-.

5. During the preparation of these fraudulent loan files, the accused used back-dated Rs. 100/- value bonds to fabricate agreements and commit fraud. The accused sanctioned these loans on a large scale, drawing funds from number of small depositors who had previously invested in the bank. The accused persons have consequently gained personal financial benefits. Furthermore, the accused committed a breach of trust and financial fraud against bank depositors by deliberate failure to return deposited amounts upon demand for payment or after maturity.

6. Until the end of March 2019, loan applications were accepted and processed based on resolutions passed by the Board of Directors, of which the present applicant was the Chairman. The Board of Directors, predominantly included family members of the applicant, ignored critical loan distribution criteria and established policies. Over three years of audits, it was discovered that loans were distributed despite incomplete applications and a total lack of physical inspections or verified reports regarding borrowers and their locations. Significantly, these loans were predominantly distributed to the applicant's family members. In most cases, funds were disbursed without any collateral or security. No efforts were made to recover these amounts, creating an ultimate risk to the depositors' money. Thus, the Chairman, Board of Directors, and staff acted in active connivance, systematically conspiring to divert financial benefits to ineligible borrowers i.e. relatives.

7. To conceal the misappropriation and maintain a false image of financial stability, recoveries were falsified on paper by issuing new loans to defaulting borrowers in subsequent years. This was done in connivance with a Chartered Accountant to obtain an 'A' grade certificate, misleading small investors into depositing more funds with the bank.

8. In the aforesaid backdrop, the learned counsel for the applicant submits that the entire investigation is complete and the charge-sheet and supplementary charge-sheet have been filed in connection with both the FIRs. The applicant has been in jail for more than two years. Since the charge-sheets are filed, there is nothing further to be recovered, inquired, or discovered at the instance of the applicant. The properties of the applicant and other co-accused persons have already been notified and attached under the provisions of the MPID Act by the State Authorities. The applicant is also an old-aged person. Furthermore, the loss caused to the Society has been determined and fixed against the applicant under the provisions of the Maharashtra Co-opeative Societies Act, 1960. It was also submitted that since other co-accused in the alleged offence were enlarged on bail, the applicant is also entitled to be released on bail on the grounds of parity.

9. The learned Special Public Prosecutor submits that various loans were disbursed to nearly 108 borrowers illegally, flouting all established norms. These amounts remain unrecovered, causing significant losses to the Society's investors. These borrower accounts were predominantly managed, controlled, and regulated by the applicant's family members to secure personal financial

gains. Witness statements on record sufficiently establish the applicant's complicity as the Chairman of the Society, as every resolution was passed during his tenure. Thus, the applicant has not only committed irregularities but has also created fraudulent records, committing a breach of trust and financial fraud against depositors and members. It is contended that invested funds were systematically misappropriated and transferred into the personal accounts of the family members of the applicant. This fraudulent diversion of small investors' deposits for personal gain constitutes a clear breach of trust, fulfilling the ingredients of an offence under Section 409 of the Indian Penal Code.

10. The Ld. Special Public Prosecutor further submitted that the investigation reveals the applicant, in connivance with other accused persons, targeted several depositors. The evidence indicates that the applicant persuaded innocent investors to submit their documents and deposit the amounts with the bank, only to divert those funds through fraudulent loan accounts primarily controlled by the applicant and his family members. Furthermore, the business establishments for which the loan amounts were disbursed also belong to the family members of the applicant.

11. It is also submitted that, there are various other cases registered against the applicant. Thus, there are criminal antecedents of the applicant. The Ld. SPP further expressed an apprehension that there is a resonable possibility of applicant repeating similar offences if enlarged on bail. Taking into account the seriousness of the allegations, the magnitude of the fraud, and the applicant's prior conduct, it is submitted that the bail application does not warrant favorable consideration, especially given the overwhelming evidence collected by the Investigating Officer.

12. Upon considering the submissions from both sides and perusing the material on record—including the charge-sheet, witness statements, and documentary evidence—it is prima facie established that the applicant, along with other accused persons including family members have acted in connivance to hatch a conspiracy to cheat innocent investors by inducing them to part with their hard-earned money and deposit same with the bank.

13. The submission of the learned counsel for the applicant that since the investigation is complete and the charge-sheet is filed, nothing remains to be recovered, inquired into, or discovered,

does not warrant consideration at this stage, as the applicant has prima facie indulged in the offence of criminal breach of trust. The prosecution has sufficiently demonstrated that funds collected from small depositors were distributed to the Board of Directors, as well as the family members and relatives of the applicant, through Board Resolutions passed while the applicant served as Chairman.

14. The essential ingredients of Section 409 of the IPC offence are threefold:

> i) There must be entrustment of property or dominion over property by the accused;
> ii) The accused must be acting in the capacity of a banker, merchant, broker, attorney, or agent; and
> iii) There must be dishonest misappropriation or conversion of such property for his own use, or disposal of it in violation of the law or the contract governing such entrustment.

15. The record clearly indicates that several small investors entrusted their hard-earned money to the applicant and his associates through the Bank. This entrustment was made based on specific representations, resulting in a relationship that extended beyond a mere commercial contract. The investors / depositors placed their money in the custody of the applicant in a fiduciary capacity; consequently, the applicant was under a legal obligation

to ensure the safety of the funds and to provide the promised returns on such investments. The investigation further reveals that instead of using the entrusted money for genuine purposes, the applicant systematically siphoned off large sums by disbursing loans to his family members. Thus, the evidence unequivocally satisfies the requirements for the offence of criminal breach of trust.

16. In view of the aforesaid circumstances and considering the material on record, the evidence prima facie establishes the entrustment of money, its dishonest misappropriation, and fraudulent intention on the part of the applicant. Therefore, I am of the considered opinion that the prosecution has made out a strong prima facie case for the commission of an offence under Section 409 of the Indian Penal Code which is punishable for 10 years or life, along with the fine.

17. So far as the ground of parity, it can be a significant factor for granting bail, even at this stage and despite the bail applications of co-accused being allowed, the Court must satisfy itself that sufficient grounds exist for the applicant's release. This determination must be based on a consideration of the materials

placed, further developments in the investigation, and other relevant factors.

18. Considering the ratio led down in the case of **Sagar Vs. State of UP and Another [(2025) SCC OnLine SC 2584],** the role of the present applicant and other co-accused cannot be said to be the same. Even though others may be on the Board of Directors, the applicant was at the helm of the affairs of the Credit Society and oversaw the disbursement of loans on a colossal scale. Specifically, the misappropriation of such an amount of Rs. 99,07,90,579/- involved with the applicant’s own family members being the predominant beneficiaries.

19. In the light of the aforesaid verdict, this Court needs to carefully scrutinize the role attributed to the present applicant as Chairman in relation to the incident. In the instant case, this Court cannot proceed solely on the basis of parity by making an assessment, which would not withstand legal scrutiny. When weighing an application on parity, the "position" of the accused is the clinching factor. The requirement of "position" is not met merely by involvement in the same offence; rather, "position" refers to the specific role and degree of involvement in the crime.

20. Admittedly, the present applicant is the Chairman of the Society, and every resolution to sanction loans or undertake any activity was rendered under his instructions, directions, or active participation. Furthermore, substantial amounts from these fictitious loans were eventually credited to his family members. Thus, the role of the present applicant is on a much higher footing and significantly distinct than that of the co-accused.

21. There is no debate that "bail is the rule and jail the exception" has been reiterated and restated by the Hon’ble Apex Court in several decisions. However, these very decisions also caution that such liberty is not an absolute. The Court must balance individual liberty with other equally important considerations, namely: the rights of victims, the interests of society at large, and the need to ensure a fair and proper trial.

22. In the present matter, the allegations leveled against the applicant are neither trivial nor isolated. The prosecution's material collected by the prosecution, prima facie, demonstrates a systematic and large-scale fraud, wherein more than a hundred small investors are deceived, cheated and an amount exceeding

Rs. 99 crores was siphoned off. The modus operandi adopted by the applicant involved luring small investors by persuading them to deposit their hard-earned money and encouraging them to continue investing in the Credit Society, only to subsequently misappropriate those funds. Given the current stage of the proceedings, the magnitude and seriousness of this fraud cannot be ignored.

23. Moreover, there are other offences of a similar nature registered against the applicant. The applicant has history of committing similar offences involving substantial amounts indicates that the modus operandi adopted as Chairman, along with the Board of Directors, is a recurring pattern. Consequently, the possibility of the repetition of similar offences cannot be ruled out, if the applicant is enlarged on bail. This remains a prominent factor in exercising judicial discretion against the grant of bail.

24. The Hon'ble Apex Court, in the case of **Y.S. Jagan Mohan Reddy Vs. CBI [(2013) 7 SCC 439],** has held that economic offences involving deep-rooted conspiracies and the massive diversion of public money stand on a different footing. Such offences seriously affect the national economy and erode the

trust of the common man in financial systems.

25. In light of the deep-rooted conspiracy, the magnitude of the fraud, and the applicant's antecedents, I am of the considered view that enlarging the applicant on bail at this stage is not warranted. Granting bail under such circumstances would undermine public confidence and could encourage the repetition of similar fraudulent acts.

26. Keeping in view aforementioned peculiar facts and circumstances, including the colossal scale losses suffered by small investors of their hard-earned money, the immense scale and manner of the fraud, and the applicant's criminal antecedents, I am of the considered opinion that no sufficient grounds exist to exercise discretion in favour of the applicant

27. Resultantly, the applicant stands **rejected**.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi