IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

BAIL APPLICATION NO. 1659 OF 2025

PARMESHWAR GULAB RATHOD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Abhijeet V. Thombre
APP for Respondents-State : Mr. S. N. Morampalle
Advocate for Applicant in Cri.A. : Mr. A. S. Gandhi (Assit to APP)

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WITH
CRIMINAL APPLICATION NO. 3903 OF 2025
IN BA/1659/2025

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CORAM : SACHIN S. DESHMUKH, J.
Date : 9th December, 2025

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 02.01.2025 bearing Crime No. 4 of 2025 registered with Pimpalner Police Station, Dist. Beed for the offences punishable under Sections 318(4), 316(2), 316(5), 238, 3(5) of the Bharatiya Nyaya Sanhita, alongwith Sections 3 and 4 of the Maharashtra Protection of Interests of Depositors Act.

2. The case of the prosecution is that on 18.04.2019 a branch of Laxmimata Urban Credit Nidhi Ltd., was opened at

Mhalasjavala phata. Informant Bhima Vithoba Raut went to the said bank for inquiry about interest on deposit and met the accused / applicant i.e. Chairman. Then, the accused, under the false promise and inducement of giving higher rate of interest asked informant to deposit money in the bank. Accordingly, the informant deposited money in fixed deposit in the said bank in his name as well as in the name of his wife. Many villagers of village Mhalasjavala kept their money in the bank in fixed deposit. On 01.10.2023, one fixed deposit receipt of the informant of the amount of Rs.1 lakh got matured. Hence, informant went to the bank and demanded payment of the amount of maturity. At that time, the applicant and other office bearers of the bank assured to make payment after few days. Finally on 28.11.2023 informant noticed that the bank was closed. Accordingly, the FIR was lodged.

3. The learned counsel for applicant submits that the amount taken from informant is for Laxmimata Urban Credit Nidhi Ltd and therefore, it is not personal liability of the applicant. The entire case is based on the documentary evidence which is available in the bank. The investigation is completed and charge-sheet is filed. As such, incarceration of the applicant is unjustified. Hence, prayed to allow the application.

4. Per contra, the learned APP vehemently opposed the application submitting that the offence is serious in nature and the accused have misappropriated huge amount of informant as well as other depositors. The applicant has actively participated in commission of crime. Hence, prayed for rejection of the application.

5. Upon going through the FIR, it prima facie indicates the informant specifically mentioned that the applicant under the false promise of giving high rate of interest induced the informant and other depositors to keep their money in various investment schemes of the bank and later on, failed to make payments of the amount.

6. Prima facie, it appears that the applicant i.e. Chairman of the Society, is held responsible for conducting the business of the bank. As such, the applicant is responsible as contemplated in Section 3 of the MPID Act. The present applicant has proactively participated in the commission of offence, while siphoning the amounts deposited by the small investors.

7. 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.

8. 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. Thus, the evidence unequivocally satisfies the requirements for the offence of criminal breach of trust.

9. 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.

10. 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.

11. 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.

12 In view of the aforesaid discussion, no case is made out to grant bail to the applicant.

13. Accordingly, the bail application stands **rejected**.

14. Resultantly, the pending criminal application also stands disposed of.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi