

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2176 OF 2024

Alok Sukhdev Pramanick

.. Applicant

Versus

State of Maharashtra & Anr.

.. Respondents

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- Ms. Kaushalya Patil i/by Ms. Pushpa Ganediwala & Co., Advocates for Applicant
- Mr. Hitendra J. Dedhia, APP for Respondent No. 1 - State
- Mr. J.J. Deshmukh, Advocate for Mr. Atul Shinde (through VC)
- Mr. Tanaji Cherle, API, Amboli Police Station, Mumbai

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 05, 2025

P. C.:

1. Heard Ms. Patil, learned Advocate for Applicant; Mr. Dedhia, learned APP for Respondent No. 1 - State and Mr. Deshmukh, learned Advocate for Mr. Atul Shinde.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") in connection with C.R. No. 610/2023 registered with Amboli Police Station, Mumbai for offences punishable under Sections 420, 406, 506 r/w 34 of the Indian Penal Code, 1860 (for short, "**IPC**") and under Sections 3 and 4 of the the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short, "**MPID**").

3. On 02.04.2025 after hearing learned Advocate for Applicant and learned APP, following order was passed:-

"1. Heard Ms. Patil, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent No. 1 - State.

2. Prima facie, it appears that the Applicant acted as the interface for the company named Shree Swami Krupa Business Solution, which was a proprietary concern of the principal accused. The case of the prosecution against the Applicant in the present crime is that he had received certain amounts directly from the investors by inducing and luring them to fetch higher returns in lieu of their investments through him. Prima facie record shows that there are 4 investors who invested monies through the Applicant in the said Company. Though it is the prosecution case that the said investors had actually given the money for investment to the Applicant and the Applicant may have on his own accord invested the same elsewhere.

3. The first informant in the present case has come with a case that during December 2022 to January 2023 for a period of 3 months, he had invested amount of Rs. 1.2 Crore through the Applicant in the said Investment Company. It is borne out from the record that first informant was having a long standing relationship of investment with the Company since past 10 years prior to filing of the FIR and the first informant handed over the amount of Rs. 1.2 Crore to the Applicant for investment. Record which is investigated till date shows that and even according to the first informant, prima facie, he has received back an amount of Rs. 97 Lakhs out of the investment made by him through the Applicant. That apart according to prosecution case, there are 3 other investors who had invested monies intermittently but significantly in small denomination through the Applicant.

4. Ms. Patil would persuade me to consider that in the case of one of the remaining 3 investors, he was already returned back a sum in excess of what he had invested which is borne out from the record itself. His name is Mr. Atul Shinde. Insofar as the other 2 investors are concerned, their investment was significantly of much lesser amounts made through the Applicant.

5. The case of Applicant is that he was a driver employed by the main accused person and working for the said Company. He was asked by the main accused to become the face of the Company and get customers for a commission which the Applicant did.

6. Mr. Dedhia, learned APP would persuade the Court to allow him to take appropriate instructions on the aforesaid submissions and precise role of Applicant in the present crime and apprise the Court accordingly. The concerned Investigating Officer shall give appropriate instructions on the precise role of Applicant so that the present Application can be considered on the next date considering that Applicant is incarcerated for 16 months and investigation is complete.

7. *Stand over to 16th April, 2025. To be shown on the Supplementary Board."*

4. Today when the matter is heard, Mr. Dedhia, learned APP in response to the questions raised in paragraph Nos. 3, 4 and 5 of the above order would submit that what is stated therein is *prima facie* borne out from the prosecution case as also the record. Insofar as the name of Mr. Atul Shinde figuring in paragraph No. 4 of the said order is concerned, Mr. Deshmukh, learned Advocate persuades the Court to intervene in the matter on his behalf in order to apprise the Court on the fact that though it may be true that invested amount of Mr. Atul Shinde has been returned back in its entirety, there was another parallel transaction entered into by him seeking investment for 195 gold coins out of which he has returned back only 103 gold coins.

5. Mr. Dedhia would submit that the statement of Mr. Atul Shinde with respect to the transactions pertaining to gold coins is also recorded by the prosecution but it is not the subject matter of the present case indicting the Applicant. *Prima facie* the said transaction would indict principal accused person who was conducting the business on behalf of Shri Swami Krupa Business Solution. If Mr. Atul Shinde has any grievance, he can take steps as available to him in accordance with law.

6. Insofar as present Applicant is concerned, as *prima facie* delineated in the previous two orders passed by this Court he was a driver in the said company of the principal accused. Undoubtedly, insofar as Applicant is concerned, he was involved in 4 transactions which have been delineated in the aforesaid order and in respect of which it is seen that in view of the relationship between the parties i.e. Shree Swami Krupa Business Solution and the concerned investors, the said investors were already returned back a substantial portion of the amount which they had invested. In that view of the matter and considering the precise role of the Applicant at this *prima facie* stage, I am inclined to release the Applicant on bail. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

7. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

8. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
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