

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2446 OF 2024**

Sushil Shrikant Todankar ... Applicant
versus
State of Maharashtra ... Respondent

Mr. Sanjeev Kadam, Sr. Advocate with Mr.Akshay Deshmukh, Mr. Sanket Kadam, for Applicant.
Mr. A.A.Naik, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 30 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.260 of 2023 registered with Haveli Police Station, District Pune, for the offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 along with the co-accused, including his brother Sumit S. Todankar, has preferred this application to enlarge him on bail.
3. Omkar Pandit, first informant, lodged a report with the allegations that the applicant and his friend Sachin Jagtap (A3) had induced the first informant, his father and other friends, relatives and acquaintances to invest an amount of Rs.4,41,70,000/- by making a false representation that the applicant, in turn, would invest the amount in the stock market and other

ventures which would yield lucrative returns. After the initial payment, the applicant and co-accused stopped making payment towards the periodical returns, as promised. It transpired that the applicant and co-accused had duped innocent investors. The applicant also made himself scarce since March 2023. Hence, the report.

4. Mr. Kadam, learned Senior Advocate for the applicant, submitted that the FIR lodged by the first informant was mala fide. In fact, the wife of the first informant, namely Minal Pandit, was one of the partners of Tradesmith FX LLC, into which the investors had allegedly invested the amount. The applicant was one of the five partners with 20% share in the profits. As the business venture suffered loss, the applicant could not honour the commitments. However, there was no intention to defraud. On the own showing of the first informant, a sum of Rs.1.47 Crores has already been refunded. The investigating agency has also secured the assets valued over rupees four and a half crores. The applicant has been in custody since 15 September 2023. The trial will take a considerable time. Thus, the applicant be enlarged on bail.

5. Mr. Naik, learned APP, resisted the prayer for bail. It was submitted that the investors were induced to invest the amount in the accounts of Tradesmith Education and not Tradesmith FX LLC, of which Minal Pandit was a partner. Only the applicant and co-accused Sumit (A2) were the partners of

Tradesmith Education. The material on record further indicates that the amount deposited in the accounts of Tradesmith Education has been siphoned off. Two more crimes have also been registered against the applicant for identical offences. Thus, having regard to the number of victims, the quantum of the fraud and the evidence against the applicant, the applicant does not deserve relief of bail.

6. I have carefully perused the material on record, including the report under Section 173 of the Code. Prima facie, there is material to indicate a substantial portion of the amount, of which the investors were defrauded, came to be deposited in the account of Tradesmith Education. Whether Tradesmith FX LLC, another entity, of which the applicant and the co-accused were the partners, was also involved and those partners were also privy to the alleged fraud, is a matter for trial. Thus, I find substance in the submission of the learned APP that, at this stage, the prosecution cannot be doubted on the premise that Minal Pandit, wife of the first informant, is one of the partners of Tradesmith FX LLC.

7. Nonetheless, totality of the circumstances deserves to be kept in view. The prosecution alleges that out of defrauded amount of Rs.5,32,47,418/-, the property worth Rs.4,69,00,000/- has already been secured. The applicant has filed an affidavit to the effect that he will not deal with the property i.e. Sadanika Haweli No.10, nor he would create any third party rights therein.

8. The offence under Section 420 entails punishment which may extend to seven years. Likewise, the offence under Section 3 of the MPID Act, 1999, entails punishment which may extend to six years only. The applicant has been in custody since 15 September 2023.

9. Thus, having regard to the stage of the proceedings, the nature of the accusation, number of victims, the number of witnesses the prosecution may be required to examine, it appears extremely unlikely that the trial can be commenced and concluded in a reasonable period. Moreover, a substantial portion of the defrauded amount has already been secured by the investigating agency. In these circumstances, further detention of the applicant as an under-trial prisoner appears unwarranted.

10. I am, therefore, persuaded to exercise discretion in favour of the applicant.

11. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Sushil Shrikant Todankar be released on bail in C.R.No.260 of 2023 registered with Haveli Police Station, Pune Rural, on furnishing a PR bond in the sum of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before Haveli Police

Station on first Monday of every month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)