

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4116 OF 2024**

Sandip Chintaman Samant

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Satyavrat Joshi a/w Samay Pawar, for the Applicant.

Ms. Megha S. Bajoria, for the Respondent.

PI – Dattatray V. Bhapkar, EOW/Thane.

**CORAM
RESERVED ON :
PRONOUNCED
ON:**

**DR. NEELA GOKHALE, J.
09TH SEPTEMBER 2025
22ND SEPTEMBER 2025**

JUDGMENT:-

- 1.** The Applicant seeks his release on bail in connection with C.R. No.77 of 2023 dated 4th March, 2023 registered with Police Station, Thane for offences punishable under Sections 420, 406, 427, 34 and 120-B of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short **MPID**).

- 2.** The case of the prosecution is as follows:

i) The Complainant saw an advertisement on YouTube inviting members of the general public to invest in A. S. Agri and Aqua L.L.P, a Company stated to be engaged in conducting new Technology Training Programmes and Investments. She called on the telephone number provided in the advertisement and was able to connect with one Mr.Akshay Apte as well as Mr.Avinash Baban Sangle, stated to be the Directors of the said Company. On 12th July, 2021, the Complainant's husband and son visited the project site of the A. S. Agri Company. Mr. Akshay Apte and Avinash Sangle induced the Complainant and her family to invest in said project. They were promised double returns on their investments within 16 months. Additionally, they were promised Rs.1 crore after 16 months and further Rs.1 crore per year for the next five years. The said Akshay Apte and Avinash Sangle won the trust of the Complainant and she promised to invest in their Company. Thereafter, both of them repeatedly called her and ultimately, she was induced to invest an amount of Rs.1 crore in their Company. The said

amount was transferred by RTGS in the account of the Company with the HDFC Bank.

ii) The Complainant and her husband repeatedly asked for receipts acknowledging the receipt of money and also demanded execution of an agreement in their favour. In August, 2021, the said Akshay Apte and Avinash Sangle sent a surveyor namely one Prabhakar to survey the project land. He opined that the said land was not suitable for the project. So, Akshay and Avinash told the Complainant to purchase about 2 acres and 10 gunthas of land in village Yenmadala near the Complainant's house for the said project. Accordingly, the Complainant purchased the said land for purchase consideration of Rs.1,10,00,000/-. They were then told to level the said land, which the Complainant caused to be done for an additional sum of Rs.60,00,000/-. Despite spending so much money, they were not given any receipts nor was any farming agreement executed with them. Ultimately, after repeated requests and demands made by the Complainant,

the Applicant herein, another Director of the Company issued an E-receipt in favour of the Complainant under his signature.

iii) On 5th May, 2022, said Akshay and Avinash called the Complainant and her family to their office in Thane to execute the farming agreement. The same was executed and notarized. It was signed by another Director namely Sandesh Ganpat Khamkar on behalf of the Company.

iv) Thereafter, the Complainant and her family pursued the work of the project. However, said Akshay and Avinash informed the Complainant that they have resigned from the Company and the Complainant was free to take action against the Company. There was also no response to the emails sent by the Complainant to the Company's email account. It finally dawned upon the Complainant that she was cheated and was induced to part with huge sums on the promise of high returns in addition to purchase of land and incurring the expense on its leveling. In this manner, the Complainant was cheated by the Applicant and the co-accused.

3. The Complainant lodged the complaint dated 4th March, 2023 and accordingly, the FIR came to be registered. The Applicant was arrested on 16th March, 2023. He filed bail application under Section 167(2) of the Cr.PC. By the order dated 11th September, 2023, passed by the Special Judge, (MPID), Thane, the said application was rejected. He made a second bail application under Section 439 of the Cr.PC before the Trial Court, which was also rejected by order dated 20th June, 2024. He has thus, moved the present bail application for the reliefs as prayed.

4. Mr. Satyavrat Joshi, learned counsel appeared for the Applicant. The main thrust of his argument was that the grounds of arrest were not communicated to the Applicant in writing. Hence, there is non-compliance with Section 50 of the Cr.PC., 1973 and a breach of mandate of Article 22 (1) of the Constitution of India, 1950. He placed reliance on the decisions of Supreme Court in *Prabir Purkayastha Vs. State (NCT of Delhi)*¹ and *Vihaan Kumar Vs. State of Haryana*². He

1 (2024) 8 SCC 254

2 (2025) 5 SCC 799

thus, submits that non-compliance with Section 50 mandate has resulted in a demonstrable prejudice and denial of a fair opportunity to the Applicant to defend himself. He further submitted that the co-accused namely Prashant Zade and Sandesh Khamkar stand enlarged on bail by the learned Special Judge, MPID, Thane on the ground that the grounds of arrest were not communicated to them. He lastly contended that he has suffered incarceration for about 2 years and 6 months and the trial has not effectively commenced. He has thus suffered long incarceration and considering the decisions of the Apex Court in the matter of ***Manish Sisodia Vs. Directorate of Enforcement***³, he deserves to be enlarged on bail on this ground alone.

5. Per contra, Ms. Megha Bajoria, learned APP representing the State submitted that on 6th March, 2023, the Applicant was issued a notice under Section 41 (1) (a) of the Cr.PC at his office. The same was not served as the office remained shut. On 9th March, 2023, a second notice was

3 (2024) SCC OnLine SC 1920

issued and duly served on the Applicant's mother directing appearance of the Applicant on 10th March, 2023. The Applicant did not comply with the said notice and hence, he came to be arrested on 16th March, 2023.

6. Ms. Bajoria brought to my attention the Station Diary entry made at the Police Station which clearly indicated that the grounds of arrest were communicated to the Applicant albeit, not in writing.

7. The Applicant was produced before the JMFC, Thane within the stipulated time along with a Remand Report. The Applicant was represented by his counsel. The Magistrate remanded the Applicant to police custody till 27th March, 2023 vide order dated 23rd March, 2023. Thereafter, he was remanded to judicial custody. His two bail applications were rejected by the Trial Court.

8. Ms. Bajoria stated that information regarding his arrest was conveyed immediately to his wife Kalpana. Arrest Panchanama was made and was signed by two panchas. The

grounds of arrest mentioned in the Remand Report are as follows:

i) It has been revealed in the investigation that the accused and their Company obtained a total amount of one crore rupees in the form of investment from the Complainant and their family by showing unrealistic and impractical assurances.

ii) It is necessary to investigate the complete financial transactions of the Company established by the Accused/Applicant in March 2018, and also to check if anyone else besides the Complainant has been defrauded/cheated.

iii) It is necessary to interrogate Applicant/Accused about the other partners (co-accused) who are associates in the Company established by them and verify their involvement in the crime.

iv) The Complainant has invested one crore rupees in the Applicant's Company, but the promised project neither was started nor any effort was made to start the promised project.

Therefore, it is necessary to investigate that the amount received by the Applicant is invested or used or siphoned by the Applicant/Accused for his personal use. The contents of Remand Report are signed and perused by the accused and same is within 24 hours of his date of arrest.

9. On merits, Ms. Bajoria states that the statement of the Applicant that Rs.700 crores were seized is incorrect. The investigation is still underway. The property sought to be given as a security by the Applicant is mortgaged with ICICI Bank and its possession is taken by the Competent Authority under the SARFAESI Act. The property of the co-accused is mortgaged with Abhyudaya Bank. She further submits that there are more than 900 investors / victims who have been defrauded of their life's savings by the fraud committed by the accused including the Applicant. Additionally, the Applicant has five criminal antecedents of similar nature. The Applicant is thus, a habitual offender having adopted similar *modus operandi* to dupe ordinary people. She thus, strongly resists grant of bail to the Applicant.

10. Ms. Bajoria also submits that the order passed by the Sessions Court enlarging the co-accused on bail is challenged before this Court and the said application is yet pending. She placed reliance on the decision of the Supreme Court in case of *Ram Kishor Arora Vs. Directorate of Enforcement*⁴, clarifying that the directions in *Pankaj Bansal Vs. Union of India*⁵ shall apply prospectively and not to earlier cases. She thus, submits that there is compliance with Section 50 of the Cr.PC and hence, there is no violation of the fundamental rights of the Applicant.

11. I have considered the rival submissions of both the counsels and have perused the material on record with their assistance.

12. The principal argument of Mr.Joshi is a violation of Section 50 of the Cr.PC.

13. I have perused the case diary, station diary and the notice issued to the Applicant and other accused. The first

4 2023 INSC 1082, SC

5 2023 INSC 866

notice was issued under Section 41A (1) of the Cr.PC on 6th March, 2023. The same was not served as the office was closed. An entry was made in the station diary in that regard. The second notice under Section 41A (1) was issued on 9th March, 2023. The Applicant was asked to attend the Police Station on 10th March 2023, however, he did not comply with the notice. Therefore, invoking Section 41A (4) of the Cr.PC, the police arrested the Applicant. An entry to that effect was made in the station diary and in the case diary. Both the entries show that his wife was also intimated accordingly. I have perused the Remand Report. The grounds of arrest are clearly mentioned in the Remand Report. The Applicant's signature appears on the Remand Report. This indicates that the Applicant was made aware of the grounds of arrest.

14. Admittedly, the grounds of arrest were not communicated to the Applicant separately in writing. However, as pointed out by Ms.Bajoria, the arrest is of 16th March, 2023. The decision of the Supreme Court in *Pankaj Bansal (supra at 5)* is dated 3rd October, 2023. The decisions

following ***Pankaj Bansal (supra at 5)*** mandating the grounds of arrest to be given in writing are also after the date on which the Applicant was arrested. Prior to the directions of the apex court, in the decisions in the case of ***Pankaj Bansal (supra)*** and ***Prabir Purkayastha (supra)*** to provide grounds of arrest in writing, the Investigating Officers followed the procedure of Section 50 of the Cr.PC mandating the grounds of arrest to be informed to the accused. In the present matter, the grounds of arrest have been expressly conveyed and informed to the Applicant and the compliance with Section 50 of the Cr.PC is made.

15. I have also perused the decision of the Supreme Court in ***Ram Kishor Arora (supra at 4)***. Para 23 of the said decision reads thus:

*“23. As discernible from the judgment in **Pankaj Bansal** Case also noticing the inconsistent practice being followed by the officers arresting the persons under Section 19 of PMLA, directed to furnish the grounds of arrest in writing as a matter of course, “henceforth”, meaning thereby from the*

*date of the pronouncement of the judgment. The very use of the word “henceforth” implied that the said requirement of furnishing grounds of arrest in writing to the arrested person as soon as after his arrest was not the mandatory or obligatory till the date of the said judgment. The submission of the learned Senior Counsel Mr. Singhvi for the Appellant that the said judgment was required to be given effect retrospectively cannot be accepted when the judgment itself states that it would be necessary “henceforth” that a copy of such written grounds of arrest is furnished to the arrested person as a matter of course and without exception. Hence non furnishing of grounds of arrest in writing till the date of pronouncement of judgment in **Pankaj Bansal** case could neither be held to be illegal nor the action of the concerned officer in not furnishing the same in writing could be faulted with. As such, the action of informing the person arrested about the grounds of his arrest is a sufficient compliance of Section 19 of PMLA as also Article 22(1) of the Constitution of India, as held in **Vijay Madanlal** (supra).”*

16. Thus, providing information to the person arrested about the grounds of arrest is sufficient compliance under

Section 50 of the Cr.PC. Moreover, The Supreme Court in its recent decision in *State of Karnataka Vs. Sri Darshan Etc.*⁶ held that, delay in furnishing the grounds of arrest cannot by itself constitute a valid ground for grant of bail. Paragraph 20.1 reads thus:

“20.1. Delay in furnishing the grounds of arrest cannot, by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents - accused contended that the arrest was illegal as the grounds of arrest were not furnished immediately in writing, thereby violating Article 22 (1) of the Constitution and Section 50 Cr. PC. (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that “no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice”. Similarly,

6 (2025) SCC OnLine SC 1702

Section 50 (1) Cr. P.C.requires that “every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

20.1.3. *The constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.*

20.1.4. *In Vihaan Kumar v. State of Haryana²², it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in Kasireddy Upender Reddy v. State of Andhra Pradesh²³, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post- Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirement in all circumstances.*

20.1.5. While Section 50 Cr. P.C. is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a prima facie case. It noted, inter alia, that there was no mention in the reman orders about service of memo of grounds of arrest (para 45); the arrest memos were allegedly template-based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on Pankaj Bansal v. Union of India²⁴ and Prabir Purkayastha v. State (NCT of Delhi)(supra), it concluded (paras 43, 49 - 50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a prima facie case. Its reliance on Pankaj Bansal and Prabir Purkayastha is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.”

17. Considering the aforesaid decisions of the Supreme Court, it is clear that there is no violation of Section

50 Cr.PC requirement. There is no demonstrable prejudice caused to the Applicant for not having received the grounds of arrest in writing, the same having been intimated to him promptly, in any case. It is evident that the Applicant had never even raised this ground in his successive bail applications made before the trial Court. Most pertinently, this ground was added in the present application by way of an amendment. Hence, this argument of Mr. Joshi is rejected.

18. On facts, it is seen that huge amounts were received by the Applicant. There are huge number of investors who have been defrauded by the Applicant and the co-accused. Some of their statements are also on record. The Seizure Panchanama of diaries, vouchers, files, bills, computer devices, etc., also *prima facie* point to the culpability of the Applicant. The Forensic Auditor's preliminary report is indicative of the transfer of huge amounts in the account of the Applicant. The Affidavit of the Police Inspector attached to the EOW, Thane avers that the approximate amount

defrauded is Rs.377,59,99,641/-. The Applicant also has antecedents, having committed offences of similar nature.

19. It is a well settled principle that while considering a bail application, the Court is not expected to conduct a roving enquiry in the evidence but to see only whether a *prima facie* case exists. The facts in the present matter and the material on record clearly indicate that vulnerable and gullible investors were lured into handing over their money on assurance of unrealistic fixed profits. The nature of transaction was not that of a genuine commercial partnership or a business venture but rather a unilateral promise of fixed returns. This is precisely what the legislature intended to protect under the MPID Act, in order to prevent exploitation of small and unsuspecting depositors.

20. I am not impressed with the argument regarding the principle of parity in the present matter. In any case, the State has already challenged the orders passed by the Trial Court granting bail to two co-accused.

21. In view of the above discussions and considering the material on record it is clear that the scale and gravity of the present offence is far more severe. Considering all these aspects, the gravity of allegations, the magnitude of fraud, the manner in which innocent investors were duped and the antecedents of the Applicant, this Court finds that no case is made out for grant of bail. The submissions of the Applicant, carefully considered, do not persuade me to exercise discretion under Section 439 of the Cr.PC in favour of the Applicant.

22. Bail Application is accordingly, rejected.

(DR. NEELA GOKHALE, J)