AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4460 OF 2024

Deepak Pandurang Dalvi … Applicant

V/s.

The State of Maharashtra … Respondent

Mr. Mithilesh ishra i/by Mr. Vikram V. Tare Patil for the applicant.

Ms. Supriya Kak, APP for the respondent-State.

Mr. Ajit Kamble, API, Wagle Estate Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 6, 2025

P.C.:

1. By the present application filed under Section 439 of the Criminal Procedure Code, 1973 (hereinafter referred to as "Cr.P.C."), the applicant seeks to be released on regular bail in connection with Crime Register No.198 of 2023, registered with Wagle Estate Police Station, for offences punishable under Sections 420, 406, 409, and 34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC"), and also under Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (hereinafter referred to as "MPID Act").

2. The case of the prosecution is that the first informant, Vinayak Shekar, has known accused No.1, namely Deepak Dalvi, since the year 2010. Accused No.1 is the husband of co-accused

Shilpa Dalvi. As both the informant and accused No.1 were serving in the same organization, they developed a friendship over time. In November 2022, accused No.1 informed the informant that he had started a company under the name ‘Grow Smart Investment’. It was claimed by accused No.1 that the company dealt with share trading activities through his personal Demat Account, and that he used to collect funds from investors for this purpose. He further promised that the investors would receive a return of 7% per month after deduction of TDS, and that the principal amount would also be returned whenever demanded by the investor.

3. Believing the assurances, the informant initially invested an amount of ₹2,00,000/- with accused No.1. As a security for the said amount, accused No.1 issued a cheque of ₹2,00,000/- in favour of the informant. From the time of investment till February 2023, the informant received a total of ₹38,450/- towards returns. Thereafter, on 1st April 2023, accused No.1 contacted the informant and informed him that he would be closing his company operations for some time, but assured him that the invested amount would be returned by 10th April 2023. However, on 8th April 2023 itself, accused No.1 closed the office and vacated his residence without informing anyone.

4. Subsequently, when the informant attempted to deposit the security cheque, the bank informed him that there was no sufficient balance in the account of accused No.1. Therefore, the informant did not deposit the cheque. Thereafter, when the informant went to the office of accused No.1, he found that a large number of people had assembled outside. It was at that point that the informant came to know that many others had also invested money with the accused and had similarly been defrauded. Upon further inquiry, it was revealed that the accused persons had, in total, misappropriated an amount of ₹2,42,20,000/- (Rupees Two Crore Forty-Two Lakh Twenty Thousand only) from various investors.

5. Learned Advocate appearing for the applicant submitted that the applicant has been falsely implicated in the present case. He argued that the applicant has no direct or indirect connection with the alleged offence. According to him, the main beneficiary of the entire amount collected from the investors is accused No.2, and not the present applicant. It is contended that the funds collected from the investors were credited entirely into the bank account of accused No.2, and all financial dealings were handled solely by accused No.2. It is further pointed out that accused No.2 is already in custody in connection with another similar case. The learned Advocate submitted that the applicant was arrested on 9th September 2023 and has been in judicial custody since then. He therefore prayed that the applicant be released on regular bail, especially considering that the trial is likely to take a long time to conclude.

6. On the other hand, the learned Additional Public Prosecutor strongly opposed the bail application. She submitted that the applicant is not a mere associate but is, in fact, the promoter of the company named 'Grow Smart Investment'. She pointed out that the premises from which the company was operating were taken on leave and license in the name of the applicant. She further submitted that several official documents of the company, including banking documents, show that the company's accounts were in the name of the present applicant. It was also pointed out that the bank statements filed by the applicant himself do not support the contention that the entire money was transferred to the account of accused No.2.

7. The learned APP argued that the total amount involved in the scam is approximately ₹2,48,00,000/-. On the basis of statements recorded from multiple investors, it is evident that the applicant himself approached them and made attractive but unrealistic promises of giving monthly returns of 7% on their investments. Such returns, she contended, are illusory and economically unsustainable. This false assurance was a deliberate act to mislead and lure investors. She further highlighted that the offence under Section 409 of the IPC, which is one of the offences charged, is a serious offence punishable with imprisonment extending up to life.

8. The learned APP also drew attention to the brochure of the company's inauguration ceremony, wherein only the name of the present applicant is prominently featured, suggesting that he projected himself as the face of the company. Moreover, the cheques that were issued to investors towards returns or refunds were signed by the applicant himself in the capacity of promoter or authorized signatory. She submitted that there is a growing trend in financial frauds where individuals make tall promises of high returns, collect huge sums from the public, and when the matter reaches legal proceedings, take the defence that someone else was in charge. In the present case, she argued that the applicant has misappropriated an amount of ₹2,42,20,000/- and considering the gravity of the allegations, he does not deserve to be released on bail.

9. I have considered the submissions advanced on behalf of the applicant as well as the learned Additional Public Prosecutor. I have also perused the case papers, statements of the informant and other investors, and documents placed on record including bank statements, cheques, and the promotional material of the company 'Grow Smart Investment'.

10. The nature and seriousness of the allegations brought against the applicant indicate a pre-planned and systematic financial fraud, which appears to have been executed with a clear intention to deceive members of the public. The applicant is alleged to be the promoter of a financial establishment operating under the name ‘Grow Smart Investment’. It is alleged that under the guise of running a legitimate investment company, the applicant offered unrealistically high returns of 7% per month on the amounts invested by individuals. Such high returns, if viewed through the lens of basic financial logic and economic principles, are prima facie unachievable in genuine market conditions, especially without disclosing the risk or the actual mode of trading or investment.

11. From the prosecution record and investor statements, it appears that the applicant projected himself as the face of the company, personally interacted with investors, and gave assurances of high monthly profits and refund of principal amount on demand. These representations were clearly designed to induce confidence and attract large sums of money from unsuspecting individuals, many of whom may not have had sufficient financial literacy to assess the risks involved.

12. On a bare reading of the complaint and supporting material, the investment model suggested by the applicant appears to carry the hallmarks of a Ponzi scheme, a type of financial fraud wherein the money collected from new investors is used to pay returns to earlier investors, thereby creating an illusion of profitability and encouraging more investments. Such schemes continue only as long as new funds keep flowing in, and once that cycle is broken, the entire structure collapses, leaving most investors without recourse.

13. Courts have consistently held that economic offences involving public money and breach of trust are to be treated seriously, as they strike at the very root of public confidence in financial systems. When a promoter lures investors by false promises of high returns, collects crores of rupees, and then fails to repay or absconds, the consequences are not limited to individual investors alone but affect the economic fabric and integrity of the financial system.

14. Therefore, the gravity of the offence, the method employed in inducing the investors, and the nature of the alleged fraudulent scheme, all go to show that this is not a case of simple misappropriation but a deliberate and structured economic offence, which requires a cautious approach while considering the request for bail. The applicant's role, as projected from the record, appears to be not merely peripheral but central and active, and thus the claim of false implication cannot be accepted at this stage.

15. The record, at this stage, prima facie discloses the direct and active involvement of the applicant in the affairs of the company ‘Grow Smart Investment’. It is not the case where the applicant was merely associated in a limited or informal capacity. On the contrary, the leave and license agreement for the office premises from which the company operated was executed in the name of the applicant himself, which shows that he had control and authority over the functioning of the business operations.

16. Moreover, the bank accounts in the name of the company were being operated by the applicant, which further reinforces the prosecution’s case that he was not only the promoter but also the person in charge of handling the financial affairs of the company. If the applicant was indeed not responsible for the collection or disbursal of the invested funds, there is no explanation as to why the company’s official bank account was under his operation and control.

17. Further, the brochure of the company’s launch ceremony clearly displays only the name of the applicant, suggesting that he held himself out as the proprietor or key promoter of the investment scheme. This conduct is consistent with the allegation that the applicant personally invited and induced investors to deposit money with the promise of high monthly returns.

18. Additionally, several cheques that were issued in favour of investors, either for repayment or monthly returns, bear the applicant's own signature as the 'authorized signatory' of the firm. This fact not only confirms his operational control but also contradicts the claim that the entire transaction was managed by co-accused No.2. These documents clearly indicate that the applicant was not acting behind the scenes but was instead openly representing the company, signing financial instruments, and assuming fiduciary responsibilities towards the investors.

19. In view of this material, the defence of the applicant that he has been falsely implicated, or that he was merely a nominal figure and not involved in financial dealings, does not inspire confidence at this stage. The documents unearthed during the investigation demonstrate that the applicant had both legal authority and practical control over the company's operations, and therefore, must be held accountable for the alleged acts, subject of course to the final outcome of the trial.

20. Hence, at the stage of consideration for bail, these facts cumulatively strengthen the prosecution case and create a strong prima facie case against the applicant, justifying denial of bail.

21. The contention of the applicant that the entire transaction was managed by accused No.2 and that he is merely being implicated falsely, is not supported by material on record at this stage. On the contrary, the documents and statements of witnesses prima facie indicate that the applicant was not only aware of the investment scheme but also actively represented it to the investors, thereby directly inducing them.

22. The amount involved in the alleged offence is not insignificant, it exceeds ₹2.42 crores. This, by itself, reflects the magnitude and seriousness of the offence. Moreover, the material on record indicates that several investors have been affected, most of whom appear to be ordinary individuals who trusted the investment scheme offered by the applicant. This clearly indicates that the present case does not pertain to a mere contractual or civil dispute between two private parties, but rather involves a grave economic offence having wide repercussions on public interest.

23. When people are lured into investing their hard-earned money on the basis of false assurances and misleading promises, it leads to erosion of public faith in financial transactions and undermines the confidence of society in legitimate investment opportunities. Such conduct not only results in individual financial loss, but also threatens the integrity of the financial system, especially when multiple citizens are duped through a structured scheme.

24. Further, the applicant is charged under Section 409 of the Indian Penal Code, which deals with criminal breach of trust committed by a person in a position of trust or authority, such as a banker, merchant, agent, or company promoter. In this case, the applicant allegedly held himself out as a responsible promoter of an investment company and thereby assumed a fiduciary responsibility towards the investors. Misappropriation of funds in such a role is treated by law as more serious than ordinary breach of trust, precisely because of the position of confidence reposed in such persons.

25. It is well settled that economic offences involving betrayal of trust and public money are to be viewed seriously. The punishment prescribed under Section 409 IPC, which extends up to life imprisonment, indicates the legislative intent to treat such offences with high degree of severity. The Supreme Court has time and again emphasized that economic offences, more particularly those involving public at large, require a strict approach, as they pose a serious threat to orderly economic development and stability.

26. In view of the serious allegations, the high amount involved, the number of victims, and the penal consequences under Section 409 IPC, the case assumes a gravity which militates against the grant of bail at this stage. The possibility of the applicant fleeing from justice or attempting to tamper with the evidence cannot be ruled out, particularly when large amounts remain unaccounted for and investigation is still in progress.

27. It is also pertinent to note that, as pointed out by the learned APP, there is an increasing tendency of floating investment schemes promising unrealistic returns, duping the public, and thereafter disowning the responsibility by putting the blame on co-accused or absconding from the scene. The present case, prima facie, falls in that category.

28. The possibility of tampering with evidence or influencing witnesses also cannot be ruled out at this stage, considering the nature of the alleged offence and the manner in which the investment scheme was conducted. Investigation appears to be at a crucial stage and releasing the applicant on bail may adversely impact the same.

29. In view of the seriousness of the allegations, the prima facie involvement of the applicant based on documentary and oral evidence, the magnitude of the amount involved, and the possibility of the applicant absconding or interfering with the course of justice, I am of the view that this is not a fit case to grant bail to the applicant at this stage.

30. In view of the discussion made hereinabove, this Court is of the considered opinion that the applicant has failed to make out a case for grant of bail at this stage. The material placed on record, including documentary and oral evidence, prima facie discloses the applicant's active involvement in a serious financial fraud, affecting a large number of investors and involving substantial public money.

31. Considering the gravity of the offence, the magnitude of the amount involved, the nature of inducement made to the public, the applicant's role as promoter and authorized signatory, and the punishment prescribed under Section 409 of the IPC, this is not a fit case for grant of bail. Releasing the applicant at this stage may adversely affect the ongoing investigation and may also result in the possibility of the applicant tampering with evidence or influencing witnesses.

32. Hence, the bail application stands rejected.

(AMIT BORKAR, J.)