Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5429 OF 2024

Mamidi Mahesh Bhupathi … Applicant
V/s.
State of Maharashtra … Respondent

Mr. Arif Zamirullah Khan a/w Ruksaar Shaikh, Shilpa Sharma and Jasmine K. with Humaira Shaikh, Remma Swami i/b Arif Z. Khan and Co., for the applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 6, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, praying for his release on regular bail in connection with Crime Register No. 36 of 2010, which was initially registered as Crime No. 62 of 2010 with Shivaji Park Police Station, and subsequently transferred to the Economic Offences Wing for further investigation. The applicant is facing prosecution for offences punishable under Section 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 ("MPID Act").

2. As per the case of the prosecution, the applicant along with two co-accused persons, namely Dayendra Umakant Patil and

Kiran Kumar, both residents of Hyderabad, are alleged to have formed a company under the name and style of "Swastik Innovative Multi Trade Service Company." The said company was projected and promoted as a financial establishment offering attractive returns to the general public. It is alleged that the company lured investors by promising them daily returns of 1% to 2% for a period of 30 days on the amount invested. Relying on such representation, as many as 58 persons invested a total sum of ₹84,28,000/-. However, instead of fulfilling the promised returns, the accused persons are alleged to have misappropriated the said funds for their personal gain, thereby cheating the investors. On the basis of the said allegations, the offence came to be registered.

3. Learned advocate for the applicant has submitted that the applicant had no knowledge or role in the transactions allegedly conducted by the co-accused persons. It is urged that upon examining the statements of the investors recorded during the course of investigation, it is evident that none of them have directly named the applicant or attributed to him any specific role in inducing them to invest. It is further contended that there is no material on record to show that the applicant received or benefited from any part of the invested amount. Hence, it is submitted that the applicant's involvement is at best peripheral, and that he is being falsely implicated.

4. It is further argued on behalf of the applicant that the co-accused Dayendra Umakant Patil has already deposited the entire amount of ₹84,28,000/- before the Designated Special Court under the MPID Act, which represents the entire alleged loss suffered by the complainants. Therefore, it is contended that no further recovery remains to be effected from the applicant. The applicant's counsel has also submitted that at the relevant time, the applicant was residing in Hyderabad and had no day-to-day role in the functioning of the said company. His name was shown as 'absconding' only because he was not available during the course of investigation. It is submitted that in these circumstances, the applicant may be released on regular bail, more particularly when the co-accused has already made good the alleged loss.

5. On the other hand, the learned Additional Public Prosecutor has strongly opposed the grant of bail. It is submitted that the present crime was registered way back in the year 2009, and since then, the applicant remained absconding. It is only in 2024 that he came to be apprehended from Hyderabad. The learned APP submits that the prolonged abscondence by itself indicates the applicant's intention to evade the process of law. Moreover, the learned APP points out that certain cheques issued to the investors bear the applicant's signature, which prima facie connects him with the financial transactions of the company. It is therefore submitted that the applicant had an active role in the management and dealings of the said establishment, and his custodial interrogation was delayed only because of his unavailability. In these circumstances, the learned APP submits that no case is made out for grant of regular bail and the application deserves to be rejected.

6. I have considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also gone through the material placed on record. The allegations in the FIR are primarily against the company "Swastik Innovative Multi Trade Service Company" and the co-accused Dayendra Umakant Patil and Kiran Kumar. Though the applicant is shown as one of the accused persons, the statements of the investors do not specifically attribute any inducement or direct dealing with the applicant.

7. The prosecution has not brought on record any material to prima facie demonstrate that the applicant received any part of the invested amount or that he played an active role in canvassing or operating the financial establishment. The contention of the prosecution that certain cheques bear the signature of the applicant is a matter of trial and can be appropriately tested during the course of evidence.

8. It is also not in dispute that the co-accused Dayendra Umakant Patil has already deposited an amount of ₹84,28,000/- with the Special Court, which covers the entire amount allegedly misappropriated from the investors. Thus, the issue of monetary loss or recovery stands substantially addressed.

9. As regards the applicant being shown as 'absconding', it is submitted by the learned counsel that the applicant was residing in Hyderabad and had no knowledge of the proceedings until his arrest. Though there is some delay in his arrest, the applicant is now in custody, and further custodial interrogation is not sought by the investigating agency.

10. Taking an overall view of the matter, particularly the absence of direct involvement, the deposit of the full amount by the co-accused, and the fact that the trial is likely to take time, this Court is of the opinion that further incarceration of the applicant is not necessary. Appropriate conditions can be imposed to secure his presence during trial.

11. In view of the above discussion, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 36 of 2010 registered with the Economic Offences Wing (initially registered as Crime No. 62 of 2010 with Shivaji Park Police Station), for offences punishable under Sections 420 read with 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (MPID) Act, upon furnishing a personal bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more local solvent sureties in the like amount.

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Economic Offences Wing once every three months between 10:00 a.m. and 12:00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

12. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)