

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5854 OF 2025**

Ketan V. Parekh ... Petitioner
versus
Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5856 OF 2025

Ketan V. Parekh ... Petitioner
versus
Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5876 OF 2025

Ketan V. Parekh ... Petitioner
versus
Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5877 OF 2025

Ketan V. Parekh ... Petitioner
versus
Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5879 OF 2025

Ketan V. Parekh ... Petitioner
versus
Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5878 OF 2025

Ketan V. Parekh ... Petitioner
versus

SWAROOP
SHARAD
PHADKE

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Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5882 OF 2025

Ketan V. Parekh ... Petitioner
versus

Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5881 OF 2025

Ketan V. Parekh ... Petitioner
versus

Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5884 OF 2025

Ketan V. Parekh ... Petitioner
versus

Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5885 OF 2025

Ketan V. Parekh ... Petitioner
versus

Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5880 OF 2025

Ketan V. Parekh ... Petitioner
versus

Securities and Exchange Board of
India and Anr. ... Respondents

WITH
WRIT PETITION NO.5883 OF 2025

Ketan V. Parekh ... Petitioner

versus
Securities and Exchange Board of
India and Anr.

... Respondents

Mr. Amit Desai, Sr. Advocate with Mr. Nilesh Tribhuvann, Mr. Burzin Bharucha, Ms. Jhanavi Shah, Mr. Kaushal Popat i/by White and Brief Advocates and Solicitors for Petitioner in WP No.5854 of 2025.

Mr. Burzin Bharucha with Ms. Jhanavi Shah i/by White and Brief Advocates and Solicitors for Petitioner in WP Nos.5876 of 2025, 5877 of 2025, 5879 of 2025, 5878 of 2025, 5882 of 2025, 5881 of 2025, 5884 of 2025, 5885 of 2025, 5880 of 2025, 5883 of 2025.

Mr. Mohan Rao with Ms. Sulabha Rane, Ms. Sakshi B., Mr. Sangramsingh Parab, for Petitioner in WP No.5856 of 2025.

Mr. Chetan Kapadia, Sr. Advocate i/by Ms. Anubha Rastogi and Ms. Pooja Gera, for Respondent No.1 – SEBI.

CORAM: N.J.JAMADAR, J.

DATE : 17 NOVEMBER 2025

P.C.

1. Rule. Rule made returnable forthwith, and, with the consent of the learned Counsel for the parties, heard finally.
2. The Petitioner, who is facing prosecution in Special Cases initiated by the Securities and Exchange Board of India (SEBI) – Respondent No.1 for having allegedly committed offences punishable under Sections 24(1) and 27 of the Securities and Exchange Board of India Act, 1992 (the Act of 1992) takes exception to the orders dated 4 November 2025 passed by the learned Special Judge – SEBI, directing the deposit of a sum of Rs.27,06,73,574/- with SEBI as a condition for travel to Thailand and UAE.
3. Shorn of superfluities, the background facts necessary for

determination of these petitions can be stated as under :

3.1 Respondent No.1 claimed that it had conducted a comprehensive investigation which revealed that the Petitioner was involved in a large scale manipulation of securities market. Investigation revealed the Petitioner and the co-accused violated Regulations 4(a) and (d) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995. Eventually, complaints were filed against the Petitioners and co-accused for the offences punishable under Sections 24(1) and 27 of the Act, 1992.

3.2 By an order dated 6 April, 2016, the Petitioner was released on bail by the learned Special Judge, subject to certain conditions, inclusive of the condition that the Petitioner shall not leave the country without prior permission of the learned Special Judge.

3.3 In view of the aforesaid condition, the Petitioner has been seeking permissions to travel abroad, and such permissions have been granted on multiple occasions.

3.4 By an application dated 14 October 2025, the Petitioner sought permission to travel abroad i.e. Thailand from 5 November 2025 to 9 November 2025, for a family vacation, and UAE from 18 November 2025 to 28 November 2025, for a family wedding.

3.5 The Respondent No.1 resisted the application. It was, inter alia,

contended that the Petitioner has abused the liberty of bail and again indulged in manipulation of the securities market. The Petitioner was involved in front running. In the context of the allegations of front running, Respondent No.1 has issued an ex-parte interim order – cum – show cause notice dated 2 January 2025 under Sections 11 and 11-B of the Act, 1992 against the Petitioner and others. By the said order, noticees including the Petitioner were directed to disgorge an amount of Rs.65,77,11,547/-. The Petitioner has been restrained from entering into transactions in securities.

3.6 By the impugned order, learned Special Judge was persuaded to grant permission to the Petitioner to travel abroad, subject to condition of deposit of a sum of Rs.27,06,73,574/-, which had yet not been deposited in accordance with the ex-parte order dated 2 January 2025, amongst other conditions. Learned Special Judge was of the view that, the noticee at Sr. Nos.2 to 7 had deposited an amount of Rs.38,70,37,973/-, the Petitioner had not challenged the said ex-parte interim order dated 2 January 2025 and, thus, it would be appropriate to grant permission to the Petitioner to travel abroad subject to the deposit of the said amount.

4. Being aggrieved, the Petitioner has invoked the writ jurisdiction.

5. I have heard Mr. Amit Desai, learned Senior Advocate for the Petitioner, and Mr. Chetan Kapadia, learned Senior Advocate for the Respondent No.1 – SEBI, at some length. With the assistance of the learned Counsel for the

parties, I have also perused the material on record.

6. Mr. Desai, learned Senior Advocate for the Petitioner, submitted that the onerous condition of deposit of a huge sum of Rs.27,06,73,574/-, in effect, negates the permission granted by the learned Special Judge, to travel abroad. It was submitted that the Petitioner is definitely not a flight risk as the Petitioner had travelled abroad during the pendency of these complaints on umpteen occasions and had complied with the conditions on which such permissions were granted.

7. Mr. Desai would urge, the learned Special Judge committed an error in law in taking into account the determination of the purported liability by way of an ex-parte interim order. The said order has neither attained finality. Nor any proceeding has been initiated by the Respondent No.1 to enforce the said order. Prosecution under Section 24(2) of the Act, 1992, has also not been initiated.

8. Mr. Desai would further submit that, even the determination of the liability under the said ex-parte interim order cannot be said to be qua the Petitioner principally. Inviting attention of the Court to the order dated 2 January 2025, Mr. Desai submitted that the noticee, who was directed to deposit the said amount in an interest bearing saving account with lien in favour of SEBI, was Mr. Rohit Salgaocar. The Petitioner was roped in for the purported impounding of the wrongful gain as a person jointly and severally

liable to pay the said amount. Thus, the learned Special Judge could not have taken into account an order passed in a collateral proceeding which had no nexus with the prosecution in the instant complaints, submitted Mr. Desai.

9. Mr. Chetan Kapadia, learned Senior Advocate for Respondent No.1, on the other hand, would urge that the condition of deposit of the amount of Rs.27,06,73,574/- is in consonance with the provisions contained in Section 437(3) of the Code of Criminal Procedure, 1973. The Petitioner having been released on bail could not have abused the liberty to again indulge in the mal-practices in the securities transactions. The conduct of the accused, who is on bail, is of material significance. Learned Special Judge, rightly took into account the conduct of the Petitioner and directed the deposit of Rs.27,06,73,574/- with a view to balance the equities.

10. Mr. Kapadia further submitted that the discretion exercised by the learned Special Judge cannot be lightly interfered with in exercise of the writ jurisdiction. The Petitioner is liable to disgorge the amount for which the Respondent No.1 has passed interim orders. The Court cannot be oblivious to the fact that the Petitioner indulged in manipulative trade while on bail. It was urged that the economic offences constitute a class apart. Thus, the nuanced approach adopted by the learned Special Judge cannot be faulted at. To this end, Mr. Kapadia placed reliance on the decisions in the cases of **P**

V/s. State of Madhya Pradesh and Anr.¹, State of Gujarat V/s. Mohanlal Jitamalji Porwal and Anr.² and Y.S.Jagan Mohan Reddy V/s. Central Bureau of Investigation³.

11. Mr. Kapadia stoutly refuted the submissions on behalf of the Petitioner that the Petitioner had not been directed to deposit the said amount by SEBI. It was submitted that if the order passed by the SEBI on 2 Janaury 2025 is read in its entirety, the prime role of the Petitioner becomes evidently clear. In such a situation, a direction for the deposit of the balance amount with SEBI cannot be said to be unsustainable, submitted Mr. Kapadia.

12. To start with, it is necessary to note that the learned Special Judge did not find that the circumstances of the case were such that the grant of permission to travel abroad was fraught with the risk of the Petitioner not being available for the trial. The learned Special Judge did not find that the Petitioner was a flight risk. In fact, the list of travel details (Exh.H appended to WP No.5854 of 2025) indicates that the Petitioner has travelled abroad on multiple occasions. Thus, only the legality and propriety of the condition to deposit a sum of Rs.27,06,73,574/- is required to be tested.

13. The right to travel abroad has been considered to be a facet of right to life and personal liberty, and, thus, cannot be subjected to unreasonable and arbitrary restrictions, even when a person is facing a prosecution. While

1 (2022) 15 SCC 211

2 (1987) 2 SCC 364

3 (2013) 7 SCC 439

granting permission to travel abroad, undoubtedly, the jurisdictional court is empowered to put conditions. However, the conditions ought not be so onerous that the right to travel abroad itself is defeated. Where it is asserted that the conditions are excessive and unwarranted the elements of reasonability and proportionality of the conditions come to the fore.

14. On first principles, the conditions and restrictions which the Court may impose while granting permission to travel abroad ought to have reasonable nexus with the object of ensuring the presence of the accused at the trial and maintain the integrity and fairness of the trial.

15. In the facts of the case, as is evident, an ex-parte interim order passed by the Respondent No.1 weighed with the learned Special Judge in directing the Petitioner to deposit a sum of Rs.27,06,73,574/- as a condition for the travel abroad. Under Section 11 of the SEBI Act, 1992, both in the interest of investors and securities market SEBI is empowered, either pending investigation or inquiry or on completion of investigation or inquiry, to impound and retain the proceeds of securities in respect of any transaction which is under investigation. Section 11-B empowers the Board to issue directions and levy penalty. Section 15-HA provides for fraudulent and unfair trade practices. Section 15-I confers power to adjudicate the penalties that may be imposed. The failure on the part of a person to pay the penalty imposed by the adjudicating officer or the Board, or to comply with any direction or order,

is made punishable under Section 24(2) of the Act, 1992. For the recoveries of the penalties and amounts directed to be paid, a mechanism is provided under Section 28-A of the Act, 1992.

16. In the light of the aforesaid statutory regime, if the ex-parte interim order cum show cause notice dated 2 January 2025 is perused, it becomes evident that the Board found the noticees to be prima facie jointly and severally liable for impounding of the unlawful profits, as tabulated under Table No.64. At Sr. No.1 Mr. Rohit Salgaocar was shown as the noticee and the Petitioner was declared to be jointly and severally liable for impounding of wrongful gain. Noticee Nos.1 to 7 along with persons held jointly and severally liable for impounding of wrongful gain to the tune of Rs.65,77,11,547/- were directed to deposit jointly and severally the said amount of unlawful gain in interest bearing saving account with a lien in favour of SEBI and on the condition that the amount kept therein shall not be released without permission of SEBI.

17. Paragraph 212 of the said order makes it abundantly clear that the findings therein were prima facie and the said order would be treated as show cause notice under Section 11 and 11-B of the Act, 1992 read with Regulation 11 of PFUTP Regulations and SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 2005, calling upon the noticees to show cause as to why suitable directions should not be passed against the noticees,

including a direction to disgorge the amount equivalent to total gain made on account of alleged extended front running along with interest and direction for imposition of penalty under sub-Section 4(a) of Section 11 and sub-Section (2) of Section 11-B read with Section 15-HA of the Act, 1992.

18. The material on record indicates that the noticess Nos.2 to 7 deposited the amount of alleged wrongful gain. Thus, by the impugned order, learned Special Judge directed the Petitioner to deposit an amount of Rs.27,06,73,574/- for which he was held jointly liable along with Rohit Salgaocar, who has, as informed across the bar, challenged the said notice.

19. Mr. Kapadia would urge that, since the Petitioner did not challenge the said Show cause notice, it has attained finality. Prima facie, the aforesaid submission does not appear to be in consonance with the Scheme of the Act, 1992 and the express terms of the order that, further directions would follow (if the explanation to the show cause notice is not found satisfactory). It is not a case that the Respondent No.1 has either passed any final order under Section 11 or Section 15-HA. Nor is it a case of the Respondent No.1 that the complaint under Section 24(2) of the Act, 1992 is filed or a recovery proceeding under Section 28-A of the Act has been initiated.

20. Mr. Kapadia would urge that, in view fo the conduct of the Petitioner, learned Special Judge was justified in imposing the condition.

21. I find it rather difficult to accede to this submission. From the perusal of

the impugned order, it does not appear that the learned Special Judge found it necessary to impose the said condition to secure the presence of the Petitioner at the trial or to ensure that the conditions on which the Petitioner was released on bail, were complied with. A direction for deposit of the said amount appears to be a measure towards the enforcing the interim order and show cause notice dated 2 January 2025. The Petitioner must suffer the consequences that emanate the failure to deposit the said amount, as envisaged by the provisions of the Act, 1992 and the Regulations thereunder. However, the deposit of the said amount cannot be made a condition precedent for travel abroad in connection with the prosecutions which were initiated a decade ago.

22. The decisions in the cases of P. vs. State of M. P. (supra), Mohanlal (supra) and Y. S. Joagan Mohan Reddy (supra) govern the grant of bail or cancellation of bail already granted. They have no application to the controversy at hand.

23. The upshot of aforesaid consideration is that the condition falls foul of reasonability, proportionality and nexus with the object tests. Therefore, the condition of deposit of the amount of Rs.27,06,73,574/- deserves to be quashed and set aside and, instead, a condition of deposit of a sum of Rs.5,00,000/- in each case, to secure the presence of the Petitioner at the trial, deserves to be imposed.

24. Hence, the following order :

ORDER

- (i) The Writ Petitions stand allowed.
- (ii) The impugned orders to the extent of the direction to deposit a sum of Rs.27,06,73,574/- to travel to UAE during the period 18 November 2025 to 25 November 2025 stands quashed and set aside.
- (iii) The Petitioner shall instead deposit a sum of Rs.5,00,000/- in each case by way of security deposit, which would be liable to be forfeited in the event of failure of the Petitioner to return to India on 29 November 2025.
- (iv) Rest of the conditions imposed by the learned Special Judge remain unaltered.
- (v) In the event, the Petitioner has deposited amounts in Court by way of compliance of condition to travel abroad, and the said amounts are still retained by the Court, the said amounts be adjusted against the amounts to be deposited by the Petitioner under this order.
- (vi) Rule made absolute to the aforesaid extent.
- (vii) No costs.

(N.J.JAMADAR, J.)