

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.50 OF 2025

Sonali Ashok Ugale @ Sonali
Kalidas Chandane

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH
INTERIM APPLICATION NO.515 OF 2025
IN
BAIL APPLICATION NO.50 OF 2025

Vipul Nagindas Sanghavi

... Applicant

In the matter between

Sonali Ashok Ugale @ Sonali
Kalidas Chandane

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Ashok Mundargi, Senior Advocate with Mr. Chetan A. Alai, Mr. Varun Joshi & Ms. Rama Somani i/b Chetan A. Alai for the Applicant.

Mr. Sanjay V. Vishwakarma for Intervener/applicant in IA.

Mrs. Mahalakshmi Ganapathy, APP for the State – respondent.

Mr. Sunil Sonawane, PSI, Charkop Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2025

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1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, praying for her release on regular bail in connection with Crime Register No.163 of 2017 registered at Charkop Police Station. The applicant is facing prosecution for offences punishable under Sections 420, 406, 467, 468, 471, 120-B, and 506 of the Indian Penal Code, 1860. In addition, the investigating agency has also invoked the provisions of Sections 3 and 4 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereinafter referred to as "MOFA").

2. As per the prosecution case, the applicant and her husband, who is a co-accused, are both directors of M/s. Prisha Developers. It is alleged that the applicant and the co-accused made representations before the first informant and several other prospective purchasers, stating that they were developing a real estate project named "Prisha Heights" on lands bearing CTS Nos. 1393, 1396, and 1933-C, situated at Mouje Dahisar, Borivali, Mumbai. One Mihir Oza is stated to have acted as the marketing agent for the said project and informed the first informant in December 2013 that construction work would begin within two months.

3. On the basis of such assurances and representations, the first informant claims to have paid an amount of ₹33,99,825/- towards the booking of a flat and a parking space in the said project. However, despite the passage of considerable time, construction

did not begin, and neither was the amount refunded. The informant alleges that the applicant and her husband continued to give false assurances from time to time and failed to return the money on various excuses. Eventually, the first informant lodged the present complaint, alleging cheating, forgery, and criminal breach of trust.

4. Learned Senior Advocate Mr. Mundargi, appearing for the applicant, has submitted that the applicant is a director of Prisha Developers Private Limited. He submitted that the developer company had executed a development agreement with the original owner of the land, Mr. V.K. Lal, who claims title on the basis of an auction sale. However, the final conveyance deed in favour of the said owner has not yet been executed. According to the learned senior counsel, the matter regarding execution of the conveyance deed is pending before this Court, and directions are likely to be issued shortly for the same.

5. It is further submitted that the ownership of the said land was also subject matter of litigation under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act. The said dispute has now been settled in favour of Mr. V.K. Lal by the judgment dated 5th February 2019 passed by this Court in Writ Petition No. 5539 of 2018. Hence, it is contended that there was a bona fide and genuine dispute regarding the title of the property. The allotment letter issued to the purchasers had clearly made them aware of the pending title issues.

6. Mr. Mundargi submitted that the amount received by the developer company was not misappropriated, and there was no dishonest intention at the inception. He further pointed out that the applicant's husband, who is the co-accused in this case, has already been released on default bail under Section 167(2) of the Criminal Procedure Code, 1973. As regards the applicant, it is submitted that she could not appear before the trial Court for almost five years due to a genuine miscommunication and lack of awareness regarding the proclamation order issued against her. It is argued that the orders issuing proclamation and non-bailable warrants against her were legally flawed and contrary to law.

7. The applicant came to be arrested only on 14th November 2024 and has been in custody since then. In these circumstances, the learned senior advocate submitted that the applicant deserves to be released on bail, particularly when her role is similar to that of the co-accused who has already been granted default bail.

8. Per contra, Ms. Mahalaxmi Ganapathy, the learned Additional Public Prosecutor appearing for the State has opposed the present bail application. She submitted that the development agreement, which is the basis of the applicant's claim, was executed between the applicant and a person claiming to be an auction purchaser. However, on the date of execution of this development agreement, no conveyance had been executed in favour of the said auction purchaser. In other words, the person from whom the applicant derived rights had no valid title to the property on that date.

9. It was further submitted that, even prior to the said development agreement, the competent authorities under the Maharashtra Tenancy and Agricultural Lands Act (MTAL Act) had issued a certificate under Section 32-G in favour of agricultural tenants, thereby declaring them as owners of the land in question. Therefore, the vendor of the applicant was divested of any legal title, and consequently, the applicant herself had no lawful authority or ownership over the said property. Despite this legal position, the applicant and the co-accused collected huge amounts from innocent investors, offering them flats in a proposed building project named “Prisha Heights.”

10. It is alleged that a marketing brochure was printed and distributed, in which specific flat numbers were mentioned, creating an illusion of genuine allotment. It is further alleged that no sanctioned building plan was ever submitted to the competent planning authority. Despite that, various investors paid substantial sums of money on the basis of the promise of flat allotment. These funds were allegedly withdrawn by the accused persons from the company's accounts.

11. It was pointed out that while deciding Anticipatory Bail Application No.1203 of 2017 and other connected matters, this Court had specifically asked the applicant and the co-accused whether they were ready and willing to refund the amount collected from the investors. However, the applicant and others had expressed their inability to return the total amount of ₹5,75,75,373/- collected from 32 investors. It is also submitted that throughout this period, the applicant never disclosed to the

investors the litigation pending under the tenancy laws, including the Section 32-G proceedings of the Bombay Tenancy and Agricultural Lands Act in favour of the tenants. This crucial information was suppressed from the public, resulting in deception and financial loss to the flat purchasers.

12. The learned APP further submitted that though the applicant was earlier arrested on 1st February 2019, she was released on default bail under Section 167(2) of the Code of Criminal Procedure, 1973. However, the learned Sessions Court, by its detailed order dated 27th February 2020, cancelled the said bail, holding that the correct statutory period for filing the charge-sheet in the present case was 90 days and not 60 days as wrongly held by the Magistrate. Accordingly, the applicant was directed to surrender within one month.

13. It is pointed out that instead of surrendering as directed, the applicant continued to remain at large. She moved this Court seeking further extension of time to surrender, and this Court, by its order dated 11th March 2021, granted her a further extension of three weeks from 5th April 2021 to surrender before the concerned court. Even thereafter, the applicant failed to honour the direction and absconded. She remained absconding for nearly five years and came to be arrested only on 14th November 2024.

14. Mr. Vishwakarma the learned counsel appearing for the Intervener/complainants submitted that the investors were assured possession of flats within a time frame of 9 months to 4 years. However, by the year 2015, it became clear to the investors that

the project would not be completed. Upon demanding return of their amounts, the applicant allegedly issued cheques which were dishonoured upon presentation. It was only thereafter that the investors came to know that the applicant had no valid title or authority over the land, and the entire project was floated without legal right, title or interest in the property. The act of making false promises and collecting large sums from the public, coupled with the prolonged abscondence of the applicant, clearly reflects a dishonest and fraudulent intent.

15. The learned Advocate has invited the Court's attention to a Memorandum of Understanding (MoU) dated 6th August 2012, annexed to intervention application, entered into between the tenants and the purchasers in respect of the land bearing Survey No. 67, corresponding to CTS Nos. 1395 and 1396. It is submitted that Clause II of the said MoU categorically records that the vendors (i.e., the tenants) had been issued a certificate under Section 32-M of the MTAL Act, in relation to the said land.

16. It is further pointed out that the certificate issued under Section 32-M has not been set aside or cancelled by any competent court till date and, therefore, continues to operate as a conclusive proof of ownership in favour of the tenants under the statutory scheme of the MTAL Act. The advocate submitted that the Section 32-M certificate confirms that the tenants had perfected their ownership rights over the land through due legal process and, accordingly, the title stood vested in them as on the date of the MoU and thereafter.

17. In view of the above, it is contended that on the date of execution of the development agreement by the applicant, neither the applicant nor her predecessor-in-title (i.e., the so-called auction purchaser) had any valid, lawful or transferable interest in the said property. The presence of a valid Section 32-M certificate in favour of the tenants, which continues to subsist, renders any claim of ownership by the auction purchaser or the applicant legally untenable.

18. In light of the above submissions, the learned APP and the learned advocate for the victims have strongly urged that this is not a case fit for the exercise of judicial discretion in favour of the applicant, and therefore, the application for grant of regular bail deserves to be rejected.

19. I have carefully considered the submissions advanced on behalf of the applicant, the learned Additional Public Prosecutor, and the learned advocate appearing for the complainants/investors. I have also perused the material placed on record including the FIR, documents annexed to the chargesheet, and previous orders passed in related proceedings.

20. It is an admitted position on record that, on the date when the applicant entered into the development agreement with the person claiming to be the auction purchaser, no conveyance deed had been executed in favour of that person. This means that the very person from whom the applicant derived her rights had not yet acquired legal ownership over the land in question. Furthermore, even prior to the execution of this development

agreement, the competent authorities under the Maharashtra Tenancy and Agricultural Lands Act, 1948 had issued a certificate under Section 32-G in favour of the agricultural tenants, thereby recognising them as the lawful owners of the property.

21. This submission of Intervener gains significance because Section 32-M of the MTAL Act provides that such a certificate issued by the competent authority is final and binding, unless it is reversed in appeal or by a superior forum. In the present case, there is no material to show that the 32-M certificate has ever been directly invalidated. Therefore, the applicant's act of entering into a development agreement and accepting substantial amounts from investors, despite being aware of this legal position, casts a serious doubt on her bona fides.

22. The said MoU, executed years before the development agreement, clearly disclosed the tenants' status as owners. This fact alone was sufficient for the applicant to conduct proper due diligence before representing to the public that her company had authority to develop the land. The failure to disclose the existence of the Section 32-M certificate to the investors and proceeding with the collection of funds without legal right, prima facie supports the case of deliberate misrepresentation.

23. Accordingly, the existence and continuing validity of the Section 32-M certificate further weakens the applicant's claim of lawful entitlement, and reinforces the prosecution's allegation that the project was floated without legal authority, resulting in deception of the investing public.

24. In such a situation, the chain of title itself was defective and incomplete. The person claiming to be the auction purchaser had no lawful title to transfer, and consequently, the applicant had no legal basis or authority to represent herself or her company as a lawful developer of the said land. In real estate transactions, especially those involving multiple public investors, having a clear and marketable title is the most essential prerequisite before making any representations or accepting booking amounts. The fact that the applicant proceeded to float a project, collect substantial sums from flat purchasers, and even issued brochures specifying flat numbers, despite being aware of this serious title defect, *prima facie* suggests misrepresentation and dishonest concealment.

25. The argument that the applicant was not aware of the title dispute or that there was no fraudulent intention at the inception cannot be readily accepted at this stage, especially when the documents on record clearly indicate that the Section 32-G and 32-M certificate was issued even before the development agreement was executed. A person in the position of a director of a development company is expected to exercise due diligence and verify title before launching a housing scheme. Failure to do so reflects not only negligence but raises a serious question about the *bona fides* of the entire project.

26. Another important aspect that requires consideration is the timing of the development agreement in relation to the certificate issued under Section 32-G of the Maharashtra Tenancy and Agricultural Lands Act, 1948. It is not in dispute that, prior to the

execution of the development agreement by the applicant, the competent authority had issued a certificate under Section 32-G in favour of the agricultural tenants, thereby recognising them as the deemed purchasers and owners of the land in question.

27. The development agreement in question was executed by the applicant much before the High Court judgment dated 5th February 2019, by which the said 32-G certificate came to be cancelled. But it is necessary to state that certificate under section 32-M is not set aside by this court. Therefore, on the date of the development agreement, the legal position was that the tenants were the declared owners of the land. In other words, at that time, the auction purchaser through whom the applicant claimed title, did not possess a valid or marketable title to the land, as his claim was effectively superseded by the subsisting 32-G certificate in favour of the tenants.

28. The fact that the High Court subsequently, by its judgment dated 5th February 2019, set aside the certificate issued under Section 32-G does not retrospectively cure the lack of title at the time when the applicant entered into the development agreement or accepted investments from the flat purchasers, particularly when 32-M certificate is not cancelled. At best, the this Court's judgment clarifies the future title position, but it does not legitimise the representations already made or the funds already collected by the applicant at a time when no legal authority existed to deal with or develop the said property.

29. Thus, even if the applicant may now claim that the cloud over title has been lifted, the relevant legal position for the purpose of evaluating fraudulent inducement and misrepresentation is the one that prevailed on the date of the transaction, not what evolved later. At the time when representations were made to the investors and amounts were collected, there was a clear legal disqualification from proceeding with the project due to lack of ownership rights, and the same was never disclosed to the purchasers.

30. This suppression of material facts, despite being aware of the pendency of litigation and absence of clear title, prima facie supports the prosecution's case that there was a calculated attempt to secure funds from the public under false pretenses, and that the applicant acted without authority or legal sanction. Hence, the subsequent cancellation of the 32-G certificate cannot absolve the applicant from the consequences of her prior acts.

31. Thus, in these circumstances, it becomes extremely difficult to accept the defence raised by the applicant that she or her company had any valid or marketable title to the land. On the contrary, the material placed before the Court indicates that the project was floated without any lawful authority or ownership rights, and that too, in the face of a subsisting legal declaration recognising tenants as owners. This foundational illegality significantly aggravates the seriousness of the alleged offence and justifies a cautious approach while considering the prayer for bail.

32. Despite not having any clear title over the property and without obtaining any sanctioned building plan from the competent authority, the applicant and the co-accused are alleged to have launched a residential project by the name of “Prisha Heights.” It is the case of the prosecution that the applicant, acting as a director of the developer company, circulated brochures and marketing material representing that the project was genuine and that the flats were being offered for sale with specific flat numbers and possession timelines. These representations, including flat-wise allotment and architectural impressions, gave a false impression to the public at large that the project was duly approved and that the developer had legal authority to sell the flats.

33. The material on record prima facie shows that several investors, relying on such assurances and believing the project to be genuine, paid substantial sums of money towards the booking of flats. However, it is an admitted fact that no building plan was ever sanctioned by the planning authority. Moreover, the project never took off, and not a single brick appears to have been laid on the land in question.

34. This conduct, viewed in totality, supports the prosecution's case that there was fraudulent inducement from the very beginning. The deliberate issuance of brochures with specific flat numbers, in the absence of any sanctioned plan or legal title, cannot be brushed aside as a mere civil dispute or commercial failure. It indicates a calculated attempt to mislead and extract money from innocent flat purchasers under the pretense of a non-

existent project.

35. At this stage, when the investigation has brought on record documents showing that the accused had no authority to develop the land and had nevertheless collected huge sums from multiple victims, the offence cannot be treated lightly. The act of launching a housing project without requisite approvals and legal ownership not only violates the provisions of MOFA but also undermines public trust in regulated housing schemes.

36. Such acts of deception have far-reaching consequences for society at large and call for strict judicial scrutiny. Granting bail in such serious financial offences, especially when the project never existed in the eyes of law, may send a wrong signal to the public and erode confidence in the justice system. Therefore, at this prima facie stage, the allegations demonstrate that the inducement to invest was not only false but also pre-planned, and the applicant's conduct cannot be viewed with leniency.

37. The material placed on record further reveals that while deciding earlier anticipatory bail applications filed by the applicant and the co-accused, this Court had specifically asked whether they were ready and willing to refund the total amount of ₹5.75 crores collected from the flat purchasers. However, the applicant and the others had clearly expressed their inability to return the said amount. This conduct is not only relevant in assessing the applicant's bona fides but also raises a serious doubt about the intention behind collecting the money in the first place.

38. Moreover, the record shows that the applicant was granted bail earlier under Section 167(2) of the Code of Criminal Procedure, 1973, on the ground that the charge-sheet was not filed within the prescribed time. However, the learned Sessions Court, by a detailed order dated 27th February 2020, rightly cancelled the said bail on the ground that the Magistrate had erroneously applied a 60-day limit instead of the applicable 90-day period. While cancelling the bail, the Sessions Court granted the applicant one month's time to surrender.

39. Despite being given a fair opportunity to surrender voluntarily, the applicant failed to comply with the said direction. Thereafter, she approached this Court seeking extension of time, and by order dated 11th March 2021, this Court again granted her a further three-week extension from 5th April 2021. Even then, the applicant did not surrender before the concerned Court. Instead, she absconded and remained unavailable to the process of law for a prolonged period of nearly five years.

40. The conduct of the applicant in willfully evading arrest and avoiding the due process of law is not only contemptuous but also reflects her disregard for the authority of the Court. Such prolonged abscondence cannot be overlooked while deciding a prayer for bail, particularly in a case involving economic offences where public funds and trust have been gravely misused.

41. This Court is of the considered opinion that a person who has remained absconding for such a long duration, despite repeated directions from Courts, cannot be readily trusted to abide

by any condition that may be imposed if bail is granted. The likelihood of her again absconding or tampering with the evidence cannot be ruled out. Therefore, her conduct during the course of proceedings becomes a significant factor against the grant of bail in the present case.

42. The conduct of the applicant, in remaining unavailable to the process of law for such a long time, shows disregard for the authority of the Court and strengthens the apprehension that if released on bail, she may again abscond or tamper with the evidence or influence the witnesses, many of whom are investors who trusted her representations.

43. Considering the seriousness of the allegations, the magnitude of the alleged fraud involving several investors, the absence of lawful title at the time of entering into the development agreement, the failure to obtain necessary sanctions, the applicant's prolonged abscondence from the process of law for almost five years, and the existence of a valid and subsisting certificate under Section 32-M of the Maharashtra Tenancy and Agricultural Lands Act, this Court finds no case for grant of regular bail at this stage.

44. The material on record prima facie indicates a well-planned inducement and misrepresentation, causing loss to multiple victims. The applicant has also failed to show any change in circumstances justifying her release.

45. In view of the above, this Court is of the opinion that this is not a fit case for exercise of discretion in favour of the applicant.

46. Accordingly, the bail application stands rejected.
47. In view of this, the interim application also stands disposed of.

(AMIT BORKAR, J.)