AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.102 OF 2025

Mohammad Ansaf Farooqui … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.2342 OF 2025
IN
BAIL APPLICATION NO.102 OF 2025

Godawari Sunil Jadhav … Applicant
In the matter between
Mohammad Ansaf Farooqui … Applicant
V/s.
The State of Maharashtra … Respondent

Ms. Shilpa Kapil with Ms. Chandni Bavishi and Ms. Priti Karbhari for the applicant.

Mr. Shashikant Jagtap i/by Mr. Ray Raundale for the applicant-intervenor.

Mr. Prasanna P. Malshe, APP for the respondent-State.

Mr. Ramesh Dhaigude, API, Manikpur Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2025

P.C.:

1. The present application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No.0210 of 2024 registered with Manikpur Police Station. The offences alleged against the applicant are under Sections 420 and 406 read with Section 34 of the Indian Penal Code, 1860, and under Section 3 of the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999.

2. As per the case of the prosecution, during the month of June 2022, pamphlets were circulated by a group under the name of Raj Reality Builders, promising interest-free loans for purchase of houses at concessional rates in a housing project situated at Bhoidapada, Rajavali Gaon, Vasai (East). The informant, upon visiting the office of Raj Reality Builders, was shown a coloured brochure wherein it was mentioned that a 400 square feet flat was being offered at the total cost of ₹5,05,000/-. The payment plan was also stated in the brochure, ₹50,000/- to be paid within 15 days, followed by monthly instalments of ₹5,000/- for five years, with no interest. Further, the brochure contained a promise that if the possession of the flat was not given, the entire amount paid would be refunded with interest.

3. It is alleged that at the time of booking the flat, the present applicant along with other persons namely Deepak Singh, Rahul Singh, Sonu Singh, and Anajy Nanhe, showed the site of the proposed construction to the informant and assured that the building would be constructed on that very site. Believing in such representation, the informant and his brother-in-law, one Mohammad Amim Shah, together invested an amount of ₹15,30,000/- in the said scheme of Raj Reality Builders.

4. It is further the case of the prosecution that, apart from the informant, 56 other persons also invested money with Raj Reality Builders, Khan Group Builders & Developers, and Ananya Reality on similar terms and representations. However, after collecting the total sum of ₹1,61,31,600/- from various investors, the accused persons, including the applicant, failed to hand over possession of flats or refund the amounts as promised. This led to the registration of the FIR against the applicant and others.

5. Learned Advocate appearing on behalf of the applicant submitted that there is no material on record to show that the present applicant was a partner or promoter of Raj Reality. It is contended that there is no witness statement in the charge-sheet which directly implicates the applicant in any transaction with the complainant or the investors. It is argued that the applicant was merely working as an employee of accused No.1 and had no role in the alleged scheme. It is further submitted that the applicant and his wife are both unwell and require medical attention. The learned counsel stated that although the applicant had taken a loan of ₹15,84,390/- from Raj Reality, he has already repaid ₹7,04,370/- out of that amount, and he is willing to repay the remaining dues. Therefore, it is contended that the applicant is not guilty of cheating or criminal breach of trust as alleged and deserves to be enlarged on bail.

6. On the other hand, the learned APP strongly opposed the bail application. It was submitted that as per the investigation, the applicant is not merely an employee but was actively involved as a partner in Raj Reality Construction. The statement of one of the investors, namely Shamim Hashmi, specifically mentions that the applicant introduced himself as the director of Khan Builders and Developers and was present along with Deepak Singh and Sonu Singh when promises of flat delivery were made. They handed over a coloured brochure and promised a 300 square feet flat upon initial payment of ₹1,50,000/-. Acting on such representation, the investor deposited ₹1,30,000/- with the applicant, who also issued the receipts, copies of which form part of the charge-sheet.

7. It is further argued that the applicant had accepted money from several investors and even executed agreements for sale with them. Crucially, the land where the project was proposed to be developed is recorded as tribal land, and without prior permission under Section 36A of the Maharashtra Land Revenue Code, 1966, such land cannot be lawfully transferred to non-tribal persons or private developers. Hence, it is submitted that the entire project was based on false assurances, right from the beginning, and the applicant was fully aware of this illegality. Therefore, the learned APP prayed that in view of the seriousness of the offence, the large number of victims, and the prima facie involvement of the applicant, the application for bail deserves to be rejected.

8. I have carefully considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the case diary and the material placed on record, including statements of witnesses, the FIR, and the charge-sheet filed by the investigating agency.

9. The prosecution case reveals a well-planned scheme wherein pamphlets and brochures were distributed by the group of accused persons, including the present applicant, under the name of Raj Reality Builders, promising housing loans without interest and offering flats at concessional rates. The offer was made to attract common people with the assurance that on payment of a nominal initial amount followed by monthly instalments, a residential flat would be delivered. The further promise was that in case of failure to deliver the flat, the entire amount would be refunded with interest.

10. The informant, lured by such representations, paid a substantial sum along with his brother-in-law, totaling ₹15,30,000/-, and this pattern was followed in the case of at least 56 other investors. The cumulative amount collected, as per the prosecution case, stands at ₹1,61,31,600/-. It is not the case of the applicant that any of these investors were actually delivered flats or that the project reached any meaningful stage of development. On the contrary, it is revealed that the land on which construction was promised is tribal land, which cannot be transferred or developed without obtaining prior permission under Section 36A of the Maharashtra Land Revenue Code, 1966. The fact that no such permission was obtained shows that the promise of construction was illusory and incapable of lawful execution from the very beginning.

11. The defence taken by the applicant that he was merely an employee and not a partner or proprietor does not inspire confidence at this stage. The statement of one of the investors, namely Shamim Hashmi, clearly records that the applicant introduced himself as a director of Khan Builders and Developers, was present during the presentation of the housing scheme, and actively participated in collecting money from investors. Receipt of money by the applicant and his signature on certain documents also find place in the charge-sheet. Prima facie, this indicates a degree of active involvement far beyond that of a mere employee.

12. The applicant's offer to repay part of the amount borrowed from Raj Reality, and the claim of partial repayment, even if assumed to be true, does not exonerate him from criminal liability. On the contrary, it further supports the prosecution's version that the applicant was in receipt of substantial funds from the public. Refund of part of the amount after registration of the FIR cannot be viewed as a mitigating factor when the scheme itself appears to be fraudulent and targeted at exploiting vulnerable individuals.

13. The nature of the offence, in the present case, involves cheating and criminal breach of trust on a large scale, affecting multiple victims. The allegations are serious, involving systematic inducement of public investment with false promises, and misappropriation of funds without execution of the promised project. The offence under Section 3 of the Maharashtra Protection of Interests of Depositors Act is also made out, which is a special enactment intended to protect depositors from precisely such fraudulent financial establishments.

14. The possibility of tampering with evidence and influencing witnesses cannot be ruled out, particularly when many victims are yet to depose. The scale and nature of the transactions, coupled with the financial records yet to be traced, make it necessary that the accused remain in custody to ensure proper and unhindered investigation and eventual trial.

15. The applicant's contention regarding his medical condition and that of his wife has been noted. However, no substantial medical record is produced to show that such ailments are of such grave nature that they cannot be treated while in judicial custody. In any event, adequate medical facilities are available to undertrial prisoners through the jail authorities.

16. In light of the above discussion, this Court finds that the applicant is *prima facie* involved in a serious economic offence of cheating and breach of trust involving the hard-earned money of multiple victims. The allegations against him are supported by material on record, including witness statements and documentary evidence. The conduct of the applicant in misrepresenting facts and inducing investment, coupled with the use of tribal land which could not legally be transferred, indicates that the fraudulent intention was present at the inception of the transaction.

17. The economic offences which have deep-rooted conspiracies and involve huge loss of public funds need to be viewed seriously, and in such cases, bail should not be granted as a matter of routine.

18. Considering the gravity of the offence, the nature and manner in which the offence is committed, the stage of investigation, and the reasonable apprehension of tampering with evidence or influencing witnesses, this Court is not inclined to grant bail to the applicant at this stage.

19. The bail application stands rejected. However the applicant shall be at liberty to renew the request for bail after a period of six months, in the event there is no substantial progress in the trial during that period.

20. In view of this order, the interim application stands disposed of as infructuous.

(AMIT BORKAR, J.)