AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.130 OF 2025

Santosh Popat Thorat … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Veerdhaval Kakade for the applicant
Mrs. Megha S. Banoria, APP for the respondent-State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 14, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), which now corresponds to Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), seeking his release on regular bail. The application pertains to Crime Register No. 339 of 2022 registered at Bhoiwada Police Station, Mumbai, for offences punishable under Sections 419 and 420 read with Section 34 of the Indian Penal Code, 1860 ("IPC"), as well as Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ("MPID Act").

2. The brief case of the prosecution is that in the year 2020, the first informant joined a class at Dadar (East) to learn about investments in the share market. During this period, he came into contact with accused No. 1, Mr. Sunil Yevla. However, due to the nationwide lockdown imposed on account of the COVID-19 pandemic, the said class was discontinued. Thereafter, accused No. 1 contacted the first informant and introduced him to accused No. 3, Mr. Rajkumar Singh, who was associated with a company called "Trade Money." Accused No. 1 informed the first informant that accused No. 3 was engaged in large-scale dealings in shares and had launched an investment scheme through his company. Under the scheme, an investor would receive 40% of the principal amount as profit along with the return of the principal amount within five months. It was further stated that accused No. 3 invested such funds in the secondary stock market and in BSE-listed companies.

3. Accused No. 1 also told the first informant that accused No. 3 used to execute a written agreement with each investor and issue a post-dated cheque for the amount promised after five months. He portrayed the company and its operations as trustworthy and reliable.

4. In May 2020, accused No. 1 repeatedly contacted the first informant through telephone and WhatsApp, persuading him to invest in the scheme and assuring that the principal amount would be refunded within three months, and the profit amount would be received in the next two months. Believing these assurances, the first informant initially invested ₹1,00,000 and subsequently, in July 2020, invested an additional ₹7,00,000. Accused No. 1 handed over the post-dated cheques and written agreement, signed by accused No. 3, at Kala Nagar, Bandra.

5. In August 2020, accused No. 1 informed the first informant about another scheme offering large rewards for heavy investments, with a minimum investment threshold of ₹30,00,000. He sent attractive and persuasive promotional messages to the first informant. When the first informant contacted accused No. 3, he was told to invest as per the directions of accused No. 1. Following this, the first informant invested ₹16,00,000 from his own bank account and from the account of his son, Mr. Rohan Shrikant Joshi. A written agreement was sent by accused No. 1 to the first informant's residence in Pune.

6. In total, the first informant invested ₹26,00,000 through RTGS in the account of "Trade Money" operated by accused No. 3. Against this investment, accused No. 3 reimbursed an amount of ₹9,19,000 between June 2020 and September 2020, which was credited to the first informant's SBI account and the joint account of the first informant and his son in Saraswat Co-operative Bank.

7. From September 2020 onwards, the promised payments stopped. When the first informant contacted accused No. 1 and met accused No. 3, he was informed that due to seizure of accused No. 3's Demat account, there would be a delay. Later, when the first informant visited the office at Dadar, he met accused No. 2, Rahul Tiwari, and accused No. 5, Utsav Sawant, who assured him and about 50–60 other investors that payment would be made within 15 days, as shares could not be sold due to low market rates, but would be sold later to repay investors.

8. However, soon thereafter, accused No. 3 became untraceable, his phone was switched off, and the office at Dadar was closed. On visiting the residence of accused No. 3, the first informant met his wife, Komal Mehta, who promised that she and accused No. 3 would return the money before Diwali. When the amount was not paid, accused No. 1 advised the first informant not to deposit the post-dated cheques as the money would be returned soon. Later, when accused No. 3 remained untraceable, the first informant deposited the cheques, but they were dishonoured.

9. In November 2020, accused No. 1 met accused No. 3 in Andheri and again promised repayment within 7–8 days. When no repayment was made, accused No. 1 called meetings of investors at Kotwal Garden, Dadar, where photocopies of agreements and bounced cheques were collected. As no progress was made, the first informant, along with other investors, approached the police and lodged the present complaint.

10. The learned Advocate appearing for the applicant submits that there are, in all, five accused persons in the present case. Out of them, accused No. 1, who is alleged to have played a prominent role in inducing several investors to invest money and is also alleged to have personally received an amount of ₹25,00,000/-, has not yet been arrested by the investigating agency. It is further submitted that accused No. 4, who happens to be the wife of the principal accused No. 3, has already been released on bail despite the allegations that she received an amount of approximately ₹10,00,000/-. Similarly, co-accused No. 2, against whom there is an allegation of having received around ₹75,00,000/- from the principal accused, has also been granted bail.

11. The learned Advocate points out that the role attributed to the present applicant is that he received an amount of ₹1,00,00,000/- from the principal accused No. 3. It is argued that when other co-accused, against whom similar or even graver allegations exist, have either been granted bail or not arrested at all, the applicant is entitled to claim parity with them. He submits that not arresting accused No. 1, despite his significant role in inducing the depositors and receiving funds, amounts to discriminatory treatment, thereby violating the guarantee of equality before law enshrined in Article 14 of the Constitution of India. On these grounds, the learned Advocate prays that the applicant be enlarged on bail.

12. On the other hand, the learned Additional Public Prosecutor has strongly opposed the bail application. She contends that the offences alleged are of a serious nature and involve cheating of innocent investors of substantial amounts of money. According to her, the applicant has criminal antecedents of a similar nature, which shows a pattern of conduct detrimental to public interest. She submits that the investigation reveals the applicant's active participation in the offence, particularly in receiving an amount of ₹1,00,00,000/- from the principal accused No. 3. In view of the gravity of the offence, the nature of the allegations, and the possibility of the applicant influencing witnesses or tampering with the evidence, she submits that this is not a fit case to grant bail, and therefore, the application deserves to be rejected.

13. I have considered the submissions made on behalf of the applicant as well as those advanced by the learned APP for the State. I have also perused the material placed on record, including the nature of allegations, the role attributed to each accused, and the progress of the investigation.

14. The prosecution case, on a broad reading of the FIR and investigation papers, is that the principal accused No. 3, along with other co-accused, induced several investors to invest money in a scheme promising high returns, and thereafter misappropriated the funds. The role attributed to the present applicant is that he allegedly received an amount of ₹1,00,00,000/- from the principal accused.

15. It is an admitted position that accused No. 1, who is alleged to have induced the investors and personally received ₹25,00,000/-, has not yet been arrested. Co-accused No. 4, who is the wife of accused No. 3 and is alleged to have received ₹10,00,000/-, has been released on bail. Similarly, co-accused No. 2, who is alleged to have received ₹75,00,000/- from the principal accused, has also been released on bail. These facts have not been disputed by the prosecution.

16. The principle of parity in bail jurisprudence requires that similarly situated accused should be treated alike unless there exist distinguishing features warranting a different approach. In the present case, the allegations against the applicant are broadly of the same nature as those levelled against co-accused who have already been granted bail, and in one case, the accused has not even been arrested. The prosecution has not pointed out any special or exceptional circumstance that would justify denial of bail to the applicant when others similarly placed have been given relief.

17. As regards the contention of the learned APP about the seriousness of the offence, it is settled law that seriousness alone cannot be the sole ground to deny bail when parity and other relevant factors favour the applicant. The allegation of the applicant having criminal antecedents has been noted; however, there is no material to show that in the present case he has misused liberty during investigation, or that his custody is indispensable for further investigation, which is stated to be substantially complete.

18. The apprehension of the prosecution that the applicant may influence witnesses can be addressed by imposing suitable conditions. The applicant has been in custody for a considerable period, and further incarceration, when other co-accused have already secured bail, would result in unequal treatment and may not be justified at this stage.

19. In view of the above, particularly considering the principle of parity under Article 14 of the Constitution of India, and the fact that the investigation qua the applicant is substantially over, I am of the opinion that the applicant has made out a case for grant of bail.

20. Considering aforesaid factors, the applicant is entitled to be released on bail. Hence, following order is passed:

i) The bail application is allowed;

ii) The applicant is directed to be released on regular bail in connection with Crime Register No.339 of 2022 registered with Bhoiwada Police Station, Mumbai for offences punishable under Sections 419, 420 read with Section 34 of the IPC and Section 3 of the MPID Act, upon furnishing a personal bond of Rs.1,00,000/- (Rupees One Lakh Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the Bhoiwada Police Station, Mumbai once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave territorial jurisdiction of the State of Mahrashtra without prior written permission of the Trial Court.

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

(e) 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.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

21. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)