

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.520 OF 2025

Vishnu Pandurang Dalvi

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

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- Mr. S. N. Raj a/w. Mr. Vishnu Chavan and Ms. Renuka Negi, Advocates for Applicant.
- Mr. Balraj B. Kulkarni, APP for Respondents.
- PSI – Malode, Navghar Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 28, 2025

P.C.:

1. Heard Mr. Raj, learned Advocate for Applicant and Mr. Kulkarni, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.211 of 2023 registered with Mira-Bhaynder Police Station for offences punishable under Sections 420, 120B of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 3, 4, 5, 21 and 23 of the Banning of Unregulated Deposit Schemes Act, 2019 (for short '**BUDS Act**').

3. On 15.04.2025 after hearing learned Advocate for Applicant and learned APP, following order was passed:-

"1. Heard Mr. Raj, learned Advocate for Applicant and Mr. Kulkarni,

learned APP for Respondent - State.

2. Applicant stands indicted for the offences punishable under IPC and the Banning of Unregulated Deposit Schemes Act, 2019 (for short, "BUDS Act").

3. First informant is one of the investors of the Applicant who had invested substantial amounts in the scheme floated by the Applicant, rather he has relationship with the Applicant since 2013 regarding his investments. He has approached the prosecution seeking a case against the Applicant for not having returned back the amount of Rs. 68.43 Lakhs to him which he had invested. Investigation is carried out by the prosecution and it is unearthed that there are other investors also who have suffered the same fate and therefore invocation of the Special Act i.e. BUDS Act.

4. Mr. Raj would persuade the Court to consider the prima facie facts emanating from the record in the present case for grant of bail. He would submit that not only Applicant's medical condition is required to be considered for grant of bail but on the ground of prima facie merits also, this Court consider the facts so that prosecution can adequately respond to the same. In his usual fairness, he would submit that Applicant has been incarcerated in prison for the past more than 10 months since 05.07.2024 albeit insofar as the present crime is concerned, his date of arrest is 17.10.2024. He would submit that there are 14 FIRs of similar nature filed by various investors against the Applicant for non-return of their deposit amounts which they had invested in the schemes floated by the Applicant. He would submit that Applicant had a long standing relationship with all investors for the past more than 10 years and most importantly the charge of complainant cannot sustain since there has been no element of deception at the inception stage at all. That apart he would submit that even according to prosecution case, there are a total number of 329 investors who have approached the prosecution and details of their investments is stated in the chargesheet which shows that Applicant in the present case is required to return the amount of Rs. 2.43 Crores in the present case and on overall basis if all 14 FIRs / cases filed by the prosecution are seen, Applicant is required to return back the amount of Rs. 82 to 83 Crores approximately. He would submit that as against the case of prosecution subject to it being proved in accordance with law, prosecution has already attached substantial and several immovable properties belonging to the Applicant. He would place on record the details of valuation reports compiled by the High Court empanelled Valuer in respect of the 25 properties of the Applicant which are attached. He would fairly submit that there is possibility that certain properties may be encumbered but nevertheless despite those encumbrances, the empanelled Valuer has given independent valuation reports of all the attached properties and if the same are prima facie seen, the value of the attached properties as on date would be somewhere in the region of more than Rs. 93 Crores. The details of 25 valuation reports given by M/s. S.K. Associates, empanelled Valuer of this Court dated 29.03.2025 are placed on record. I have perused the same. There are 25 valuation reports which have been appended to the compilation

which are placed on record and all 25 valuation reports are separately given in respect of the 25 properties belonging to the Applicant which prima facie appear to be land and commercial properties situated in Maharashtra. Prima facie said valuation reports cannot be disbelieved.

5. That apart Mr. Raj would next persuade me to consider that out of 14 FIRs / cases registered against the Applicant, he has been granted anticipatory bail in two of the cases and in one case he has been granted bail. He would submit that in 2 of the 14 cases, chargesheet is not filed. He would also submit that Applicant has approached this Court for clubbing of all 14 cases against the Applicant considering similarity of the charge in all the cases and has taken out appropriate proceedings to that effect in this Court. He would submit that considering the aforesaid prima facie submissions and the fact the the case of the prosecution to the extent of the liability amount stated in the 14 cases having been fully secured by virtue of attachment of substantial immovable properties as also bank accounts of Applicant and the Applicant's company, Applicant be released on bail, apart from the fact that Applicant's medical condition is also precarious.

6. Mr. Kulkarni, learned APP would persuade the Court to allow him to take appropriate instructions on the submissions which are delineated herein above. Mr. Kulkarni is handed over copy of the valuation reports / compilation given by Mr. Raj, the details of the cases filed against the Applicant as also showing the details in which he has been granted bail / anticipatory bail and matters in which chargesheet has not been filed, copy of the order dated 27.03.2023 which incidentally is the order passed under IPC and MPID Act considering the indictment of the Applicant under the BUDS Act. This order is incidentally passed by the Home Department of the State.

7. Considering the case of the prosecution as also invocation of BUDS Act in the present case wherein offences are relegated back to the period prior to 2013, learned APP shall take appropriate instructions and accordingly apprise the Court about the applicability of the said Act to the facts in the Applicant's case on the next adjourned date.

8. It is made clear that in view of the precarious medical condition of the Applicant which is delineated in the previous order as also the aforesaid issues on merits argued by Mr. Raj, case of the Applicant shall be considered for grant of bail on the next adjourned date which shall be noted by the learned APP

9. Mr. Raj shall handover copy of the chargesheet as required by the learned APP in the present case forthwith to him for consideration and taking instructions.

*10. Stand over to **21st April, 2025**. To be placed under the caption "**First on Board**".*

4. Learned APP has invited my attention to Affidavit-in-Reply

dated 01.04.2025 which is appended to the Application. In so far questions which are raised in the aforesaid order, he would submit that the exercise with respect to valuation report of 25 properties which is considered by the Court will take some time for ascertaining its veracity as per instructions received by him.

5. *Prima facie* the High Court empanelled Valuers have given their reports which are appended to the Application and which have been considered by the Court in the above order. Valuation of properties *prima facie* seen is far in excess of the alleged liability and the said Valuation Reports cannot be disbelieved.

6. That apart, Applicant has filed appropriate Application for clubbing of First Information Reports filed in all 14 cases against him before this Hon'ble Court.

7. In view of the *prima facie* observations in the aforesaid order and considering the Affidavit-in-Reply, I am of the opinion that Applicant can be released on bail.

8. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- (ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application No.520 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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by HARSHADA
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