

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.705 OF 2025

Shrikant Pandurang Palande	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Mr. Sainath Gawli for the applicant.

Mrs. Megha S. Bajoria, APP for the respondent-State.

Mr. Ravindra B. Mandlik, PI, EOW, Thane, is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 13, 2025

P.C.:

1. By this application under Section 439 of the Criminal Procedure Code, 1973 ("Cr.P.C." for short), the applicant seeks his release on regular bail in connection with Special Case No. 928 of 2022 arising from Crime Register No. I-274 of 2021 registered with Kasarvadavali Police Station. The case is for offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code, 1860 ("IPC" for short) and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 ("MPID Act").

2. The prosecution case, in brief, is that accused No. 2, Shrikant Palande, visited the informant's house and introduced himself as the proprietor of a company named Anuja Consultancy, engaged in

forex trading. He assured the informant that an investment of ₹1 lakh would yield a return of ₹5,000 per month. He also promised security for the investment by issuing post-dated cheques and executing a promissory note. Believing his words, the informant invested in phases an amount of ₹47 lakhs. Against this, Shrikant issued post-dated cheques and a promissory note. An amount of ₹12,45,000/- was repaid to the informant.

3. Thereafter, in October 2019, the accused stopped making further payments. On inquiry, both accused – Shrikant and his wife Shraddha (accused No. 1), expressed inability to pay but persuaded the informant to invest another ₹30 lakhs, assuring repayment. A Memorandum of Understanding (MoU) dated 28 July 2020 was executed between the informant and the accused. Acting on this, the informant invested ₹15 lakhs more. Subsequently, the informant discovered that both accused had vacated their residence. Consequently, the FIR came to be lodged. The applicant was arrested on 6 June 2022.

4. Learned Advocate for the applicant submits that the applicant has been in custody since 6 June 2022 and there is no likelihood of the trial concluding in the near future, given the number of witnesses and the nature of the case. It is contended that the allegations do not disclose the essential ingredients of the offence under Section 409 IPC. Further, for the offences under Section 420 IPC and Section 3 of the MPID Act, the maximum sentence prescribed is seven years. The applicant has already undergone incarceration of over three years, and therefore deserves to be enlarged on bail, more so when continued detention

would amount to pre-trial punishment.

5. Per contra, the learned APP has opposed the application. It is submitted that the applicant, along with the co-accused, was running Anuja Consultancy without registration or permission from the Reserve Bank of India to accept deposits. They lured investors with an unrealistic promise of 5% monthly returns. In total, the accused collected about ₹2,83,76,000/- from more than 48 investors, and cheques for returns were signed by the applicant himself. The money was received through bank transfers, cheques, and cash. The modus operandi included executing MoUs with investors to gain their trust.

6. The investigation reveals that ₹24,22,987/- was transferred to the applicant's personal account, and the preliminary forensic audit indicates cash withdrawals of ₹1,20,74,845/-. According to the prosecution, this is a case of systematic siphoning of hard-earned money of innocent investors. Given the scale of the fraud and its impact on multiple victims, the learned APP urges that the bail be rejected.

7. I have heard the learned Advocate for the applicant and the learned APP. I have perused the FIR, the charge-sheet papers, bank statements, the preliminary forensic audit note, the Memoranda of Understanding (MoUs), and the documents showing cheques/promissory notes issued to investors.

8. The record shows that a legal entity in the name of Anuja Consultancy was projected as doing forex trading. Investors were induced to deposit money on the promise of 5% return per month,

supported by MoUs, promissory notes and post-dated cheques. The prosecution material presently indicates that about ₹2,83,76,000/- was collected from 48 plus investors; approximately ₹24,22,987/- moved into the applicant's personal account; and cash withdrawals of about ₹1,20,74,845/- were made. The RBI communication on record shows no registration/permission for accepting deposits. The case papers also reflect that the accused stopped payments from October 2019 and thereafter left their residence.

9. The applicant argues long incarceration (since 06.06.2022), low maximum sentence for Section 420 IPC and Section 3 of the MPID Act (seven years), and contends that Section 409 IPC is not made out. The State points to the scale, modus, money trail, unauthorised deposit-taking, and the applicant's active role (signatory to cheques/MoUs) to oppose bail.

10. Section 409 IPC applies when a person, in the way of his business as a banker, merchant, factor, broker, attorney or agent, or a public servant, is entrusted with property or has dominion over property, and commits criminal breach of trust (Section 405 IPC). The essential parts are: (a) Entrustment of property or dominion over it; (b) Such entrustment in capacity as "banker/merchant/agent etc."; and (c) Dishonest misappropriation/ conversion/ use or dealing with the property contrary to law or the contract.

11. The MoUs and the accompanying cheques/promissory notes show that investors handed over money for a specific purpose, to be invested in forex trading and to earn monthly returns. This is

not a simple friendly loan or a mere sale transaction. The money was entrusted to the applicant and co-accused to hold and deploy on the investors' behalf. Bank credits into the consultancy's accounts, the applicant's role as signatory, and the trail into his personal account establish dominion over investors' funds.

12. Even if Anuja Consultancy was only registered under the Shops and Establishments Act and not with RBI, the functional capacity in which the applicant received and dealt with investors' money was that of an "agent", i.e., one who undertook to invest and manage funds for the principals (investors) and to generate returns for them. The definition of "agent" in the Contract Act (a person employed to do any act for another or represent him in dealings) fits squarely. The consultancy's promises, MoUs, and routine of monthly payouts place the applicant within the expression "agent" (and at least a "merchant" in the business sense) carrying on such dealings as a business. Section 409 IPC therefore stands engaged.

13. Dishonest use/misappropriation contrary to law/contract:

(i) The MoUs/assurances required the funds to be invested for the investors' benefit and returns paid monthly. Instead, the preliminary audit shows large cash withdrawals (₹1.20 crore approx.) and transfers to the applicant's personal account (₹24.22 lakh approx.), which is contrary to the agreed purpose and indicates conversion to own use.

(ii) The RBI communication shows that Anuja Consultancy was not authorised to accept deposits. Using investors'

money in violation of the legal framework amounts to dealing with property “in violation of any direction of law” within Section 405 IPC.

(iii) The abrupt stoppage of returns from October 2019, shifting residence, and failure to refund despite assurances reinforce a prima facie dishonest intention and breach of the trust reposed by the investors.

14. The number of investors (48+), the amount mobilised (₹2.83 crore approx.), the repeated use of MoUs/cheques to gain confidence, and the unrealistic 5% monthly return promise together disclose a systemic scheme. Such material, at this stage, supports an inference of deep-rooted conspiracy and criminal breach of trust in a business/agency capacity, fulfilling the ingredients of Section 409 IPC.

15. The contention that only Sections 420/MPID apply, and therefore the maximum punishment is seven years, is misconceived at the present stage. Once Section 409 IPC is prima facie attracted, the offence carries punishment up to life imprisonment (or up to ten years and fine). Thus, the applicant’s argument based on the seven-year cap fails. The presence of MPID charges does not exclude Section 409 when the facts disclose entrustment in agency capacity and dishonest breach.

16. Economic offences involving public investment are treated as a class apart due to their far-reaching impact on the financial health of numerous victims and on public confidence in financial dealings. The magnitude of funds, multiplicity of victims, and the

organised modus weigh strongly against grant of bail at this stage.

17. The papers show the applicant as an active signatory to cheques issued towards “returns,” a recipient of investor money (including credits to his personal account) and a participant in large cash withdrawals. This is not a peripheral or clerical role; it is a central, operational role.

18. There are over 48 investors and several banking/forensic witnesses. Many investors are small savers. The nature of the alleged scheme, the prior conduct of leaving the residence, and the ongoing tracing of funds create a reasonable apprehension that, if released, the applicant may influence witnesses, hamper recovery, or interfere with the financial trail.

19. Though the applicant has been in custody since 06.06.2022, the case involves voluminous financial records, multiple accounts, digital evidence, and co-accused. Several material witnesses are yet to be examined. In such complex economic offences, mere passage of time cannot, by itself, override the compelling triable material and risks identified above, particularly where Section 409 IPC is in play with its higher sentencing range.

20. No case for parity is made out on facts. The applicant’s signatory status, personal account credits, and the cash-withdrawal pattern distinguish his role.

21. Considering the continuing need to trace and attach properties, and the breadth of the investor-witness pool, standard conditions (like sureties, marking attendance, deposit of passport) are insufficient at this stage to neutralise the risks.

22. On a prima facie assessment, (i) the ingredients of Section 409 IPC are made out, entrustment/dominion of investors' money, agency/business capacity, and dishonest misappropriation/ use contrary to law and the MoUs; (ii) the gravity, scale, and societal impact are substantial; (iii) there exists a real possibility of tampering with evidence/influencing witnesses/impeding recovery if released. The applicant has not made out a case for bail at this stage.

23. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)