Shabnoor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1494 OF 2025

Shobhit Bhagwatprasad Maletha … Applicant
V/s.
State of Maharashtra … Respondent

Mr. Niranjan Mundargi a/w Bhakti Deshpande, Zoheb Merchant, Anamika Biswas, for the applicant.

Mrs. Megha Bajoria, APP for the State – respondent No.1.

Mr. Rishab Khot, for respondent No.2.

Mr. Sachin Rame, PI, Bandra Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. The present bail application has been preferred by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 928 of 2024, registered with Bandra Police Station, for offences punishable under Sections 419, 420, 406, and 409 read with Section 34 of the Indian Penal Code, 1860.

2. As per the prosecution's case, the complainant and the applicant have known each other since the year 2010 through business connections and have maintained cordial relations. It is the case of the complainant that during the course of their acquaintance, the applicant proposed an investment opportunity in a student hostel project situated at Dehradun, assuring that the said venture would cater to students relocating for academic pursuits and would generate significant profit owing to rising demand.

3. Based on such representation, the complainant and the applicant visited Dehradun to inspect the land proposed for the construction of the hostel. Legal assistance was availed for verifying the title of the said land, which was found to be free from encumbrances and was ultimately purchased in the name of the applicant.

4. Subsequently, on 22nd June 2016, a private limited company by the name 'Indie Camps Student Accommodation DD-1 Pvt. Ltd.' was incorporated and registered with the Registrar of Companies, in which the applicant and one Ramesh Mulashi were appointed as directors. The complainant did not object to such arrangement. Thereafter, the complainant claims to have invested considerable funds in the said business from his own sources as well as from his acquaintances, and also availed a loan of ₹8,29,89,884/- from India Bulls Finance in the name of the said company. The complainant stood as guarantor for the said loan and assumed responsibility for payment of EMIs, which amounted to ₹12,61,298/- per month. The complainant asserts that he has regularly paid the said EMIs.

5. It is further alleged that the hostel business was commenced in the year 2018, and during the academic year 2019–2020, students were admitted. The fee received from the students was being deposited into the bank account of the company. During this time, the complainant did not raise any query with regard to the operation or financial management of the business. However, during the COVID-19 pandemic, the hostel operations came to a halt temporarily owing to the nationwide lockdown, and upon resumption in 2021, when the complainant enquired about the financial records, the applicant is alleged to have evaded providing complete information.

6. Upon further inquiry and examination of records, the complainant claims to have discovered that funds deposited in the official account of the company were being transferred to the personal account of the applicant and one Naval Pant (co-accused). It was also revealed that a separate bank account had been opened by the applicant in the name similar to that of the company, where the student fees were being diverted. On learning of this, the complainant filed a complaint, resulting in registration of the present FIR. The applicant was thereafter arrested and his bail application before the Sessions Court was rejected. Hence, the present application has been filed seeking release on bail.

7. Learned Counsel appearing for the applicant submitted that the dispute is purely of a civil nature and arises out of a commercial understanding between the parties. It is contended that the applicant had also invested substantial amounts for construction of the hostel, and at most, the grievance is of non-payment of promised returns on the investment. It is further submitted that similar allegations were raised earlier in Dehradun, and after inquiry, a closure report was submitted. The applicant was arrested on 31st August 2024 and is in custody since then. Hence, he prays that considering the nature of the dispute and the period already undergone in custody, the applicant be released on bail.

8. Per contra, learned APP and the learned Advocate for the original complainant opposed the grant of bail. It is submitted that the applicant misused the trust reposed in him by the complainant, induced him to invest substantial funds under the pretext of a joint venture, and thereafter committed criminal breach of trust by siphoning off funds collected from students. It is submitted that the complainant was made guarantor for the loan and continues to bear the burden of repayment, while the applicant diverted funds for personal gain. It is alleged that the total amount misappropriated is ₹9,44,88,663/-, and the applicant has committed cheating and misappropriation on a large scale, and therefore, does not deserve to be released on bail.

9. I have carefully considered the submissions advanced on behalf of the applicant, the learned APP, and the learned Advocate appearing for the complainant. I have also perused the material placed on record including the copy of the FIR, statements, and relevant documents.

10. At the outset, it is important to note that the dispute between the applicant and the complainant arises out of a commercial venture. The complainant and the applicant were known to each other for a considerable period and had jointly engaged in a business activity concerning the construction and operation of a student hostel. The records prima facie show that the complainant himself was actively involved in the formation of the company and the acquisition of property, and stood as a guarantor for the loan taken for the said business.

11. The main allegations against the applicant pertain to alleged misappropriation of funds collected from students and failure to return the share of profits as expected by the complainant. The FIR itself discloses that the complainant continued to participate in the affairs of the company and did not raise objections until after the COVID-19 pandemic period, when the business was temporarily suspended and thereafter resumed.

12. The question whether the applicant had a legal obligation to return any specific amount with interest is a matter that would require appreciation of evidence at trial. At this stage, it would be premature to reach a conclusion that the applicant has committed offences punishable under Sections 419, 420, 406 or 409 of the IPC.

13. It is also not the case that the applicant is a flight risk. He has roots in society, and nothing is brought on record to indicate that he would abscond or tamper with evidence, or influence witnesses, if released on bail. It is also relevant to note that the applicant has been in custody since 31st August 2024, and the investigation appears to be completed. The filing of charge-sheet is already done.

14. Further, it is well-settled that criminal proceedings cannot be used as a tool for recovery of money in cases where the dispute is predominantly civil in nature. Prima facie, the entire transaction appears to be in the nature of a business dispute arising out of mutual understanding between the parties.

15. Therefore, considering the nature of allegations, the manner in which the transaction was carried out, the period of custody already undergone, and the fact that further custodial interrogation is not necessary, this Court is of the opinion that the applicant deserves to be released on bail with suitable conditions.

16. In view of the above discussion, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, shall be released on bail in connection with Crime Register No. 928 of 2024 registered with Bandra Police Station for offences under Sections 419, 420, 406, 409 read with Section 34 of the IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(d) The applicant shall report to the Bandra Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

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

17. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 9 July 2025 to carry out corrections in the clauses of paragraph 16.