IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.1713 of 2025

Shilpa Girish Karmarkar
Age: 47 yrs, Occ: Housewife
R/at Manas CHS, Sector-40
Seawoods-West, Navi Mumbai ... Applicant.
Vs.
The State of Maharashtra
Through Chitalsar Manpada
Police Station ... Respondent.

Mr Gaurav Parkar for the applicant.
Mr Pankaj Deokar, APP for the respondent / State.

Coram : R.N.Laddha, J.
Date : 9 July 2025.

P.C. :

By this application, the applicant seeks pre-arrest bail in connection with CR No.785 of 2024, registered at Chitalsar Manpada Police Station, Thane, for offences punishable under Sections 420 and 406, read with 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. The prosecution's case is that the informant, Manisha Wadkar, was introduced to certain investment schemes by her neighbour, Shilpa Bendre (applicant herein). Based on this, she met accused Girish Karmarkar, who is the husband of the applicant and claimed to have over 25 years of experience in stock trading and investment advisory. Trusting his and the applicant's assurances of high returns, the informant invested Rs.2,10,00,000/- through the Zerodha platform, which the applicant and her husband managed. Her sister-in-law, Vidya Govekar, also invested Rs.54.5 lakhs under similar promises. However, the applicant and her husband failed to deliver the promised returns or refund the amount they received, prompting the informant to file the present FIR.

3. Mr Gaurav Parkar, the learned Counsel appearing on behalf of the applicant, submits that the applicant is innocent and has been falsely implicated in the present case. A bare perusal of the FIR and the statements of witnesses clearly reveals that the entire stock trading business was exclusively managed and operated by accused No.1, who happens to be the husband of the present applicant. At no

point in time was the applicant involved, directly or indirectly, in her husband's share market or trading activities.

4. The learned Counsel further submits that investments in the stock market represent an ownership interest in a company and are inherently subject to market fluctuations, carrying both the potential for profit as well as the risk of loss. Such investments do not guarantee a fixed return of capital or interest and are speculative by nature. The learned Counsel submits that to invoke the provisions of the MPID Act, the prosecution is required to *prima facie* demonstrate that the accused persons actively induced investors to deposit money into fraudulent investment schemes promising assured returns. In the present case, however, there are no such allegations made either by the informant or by any of the investors against the applicant. There is no assertion that the applicant induced, persuaded, or even interacted with any investor regarding investment in the share market. The learned Counsel further submits that the applicant has not received any amount directly or indirectly from any of the investors. Nor has she played any

role in approaching or soliciting investors to invest their funds in the stock market either individually or through her husband. According to the learned Counsel, the applicant's implication in the present case is wholly unwarranted and without legal basis.

5. The learned Counsel submits that the informant has alleged that the applicant's husband, accused No.1, had executed a Memorandum of Understanding, wherein he undertook to return the amount invested by the informant, along with applicable interest. The applicant, being the wife of accused No.1, had merely signed the said MOU. He further submits that the amount mentioned in the MOU cannot be construed as a loan, as it was a sum advanced to the applicant's husband/ co-accused purportedly for investment in the share market. The learned Counsel submits that in furtherance of the undertaking, accused No.1 had issued cheques in favour of the informant towards repayment of the amount received. However, these cheques were dishonoured upon presentation. Consequently, the informant initiated proceedings under Section 138 of the Negotiable Instruments Act, 1881, against the applicant's

husband. The learned Counsel further submits that the applicant is ready and willing to cooperate with the investigation and undertakes to appear before the concerned police station as and when required.

6. On the other hand, Mr Pankaj Deokar, the learned Additional Public Prosecutor representing the respondent/ State, opposes the application and submits that the applicant, in connivance with her husband and in-laws, was involved in the running of business enterprise through which substantial financial fraud was committed, amounting to the embezzlement of several crores of rupees. He contends that the embezzled amount has not been secured by way of attachment of any property, thereby posing a serious concern regarding the recovery of the misappropriated funds. There are certain financial transactions linking the applicant to the crime. He submits that a sum of Rs.42,17,050/- was transferred directly from the account of the arrested accused, i.e., the applicant's husband, into the account of the applicant. Additionally, the applicant received Rs.9,00,000/- directly from the informant into her bank account. Furthermore, a substantial

sum of Rs.92,00,000/- was deposited into a joint bank account held by the applicant and her husband. Notably, the email-ID used to operate this joint account was registered in the name of the applicant. The learned APP also submits that the applicant executed an MOU acknowledging her liability in relation to the funds in question. Investigation revealed that the applicant maintains multiple bank accounts across various financial institutions. During the course of the investigation, it has further emerged that the applicant owns several immovable properties situated in Murbad, Shahapur and Panvel. The source of funds used for the acquisition of these properties is currently under scrutiny. In addition, the prosecution is conducting further inquiries to ascertain whether the applicant owns other undisclosed assets. The learned APP further points out that despite being issued a notice on 15 January 2025, the applicant failed to appear before the investigating officer and did not extend cooperation in the investigation.

7. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each

case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest bail in serious cases may affect the investigation. All these aspects are highlighted in the decision of the Hon'ble Supreme Court in *Srikant Upadhyay v. State of Bihar, 2024 SCC OnLine SC 282.*

8. Upon perusing the records, it appears that the total amount alleged to have been embezzled thus far stands at Rs.5,55,81,059/-. The applicant, who is the wife of accused No.1, Girish, appears to have played an active role in inducing investors to contribute funds to the investment scheme launched by them. Significant amounts were deposited into the applicant's personal bank account, including substantial transfers from the informant. Additionally, an amount of Rs.92,00,000/- was credited to a joint bank account held by the applicant and her husband, sourced from various investors. Furthermore, it has come to light that the applicant's husband transferred a sum of Rs.42,00,000/- directly to her individual account. The WhatsApp conversations recovered during the investigation further indicate the applicant's active participation in the

alleged criminal activity. The investigation pertaining to her role in the crime is still ongoing. It has also been revealed that the applicant has acquired multiple properties in different locations. *Prima facie,* there is sufficient material available on record indicating the applicant's involvement in the alleged crime.

9. In the totality of the circumstances, I am not persuaded by the arguments advanced on behalf of the applicant, asserting that she had no role in the commission of the crime or that her bank accounts were solely operated by her husband. Accordingly, the application stands rejected.

[R. N. Laddha, J.]