IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (BA) NO.152 OF 2025
(Mr. Viraj s/o Suhas Patil Vs. State of Maharashtra and anr.)

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

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Mr. A.A. Naik, Sr. Advocate a/b Mr. P.R. Agrawal a/w Mr. K.S. Motwani, Advocate for the applicant.
Mr. C.A. Lokhande, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 27, 2025.

By this application, the applicant is seeking bail in connection with Crime No.94/2024 registered with the non-applicant/police station for offences punishable under Sections 420, 406, 418 and 120-B read with 34 of the Indian Penal Code and under Section 66(d) of the Information Technology Act, 2008 together with Section 3 of the Maharashtra Protection of Interest of Depositors (Financial Establishment) Act, 1999.

2. The applicant came to be arrested on 15.09.2024 in the present crime by way of production warrant. Initially, he was arrested in Crime No.290/2022 and 297/2022 at Hare Street police station, Kolkata.

3. The crime is registered on the basis of a report lodged by Vikram Laxman Bajaj alleging that through one Harish Gande he got acquaintance with the co-accused Suraj Sawarkar on 20.6.2022. From co-accused Suraj Sawarkar, he received a detailed information regarding investment in “OnLine Forex Trading” and the co-accused Suraj Sawarkar

also disclosed that he works in "IX Global Company" which provides education to "OnLine Forex Trading Shares Market" and "Crypto Market" which is American based company which gives 5-15% profit every month for the said services. The company charges Rs.11,500/- per month from investors (if investment is less than Rs.4.00 lacs, subscription fee is Rs.9,800/- per month and the investment is more than Rs.4.00 lacs, fee is Rs.11,500/-) which can be directly deposited in account of "IX Global". Believing words of the co-accused Suraj Sawarkar, he paid Rs.11,500/- for "OnLine Forex Trading" on 24.6.2022. The co-accused Suraj Sawarkar added him on WhatsApp Group wherein 456 participants are there. Everyday meeting was held at 9:00 pm. It further reveals during the investigation that the present applicant was a Director of "IX Academy Pvt. Ltd.". As per the allegation, he has also induced the various investors to invest the amount. Initially, the offences are registered against the present applicant at Hare Street police station, Kolkata alleging that two fictitious accounts were open with their bank vide Account No.120001761068 and 120001761042 in the names of M/s. "T.M. Traders and M/s. K.K. Traders" respectively with the same address showing their place of business at 16, Strand Road, 5th Floor, Unit-513/49 purportedly having complied with the KYC verification through Pan card, Aadhar card, Trade License Certificate and the Certificate under the Shops and Establishment Act. It further revealed that the accounts were opened on 31.08.2022 and on 17.09.2022. It was noticed by the OTM Cell of the Bank, Bangalore that huge debit transactions were done in those accounts. Then the credibility of the transactions were doubted and the Banker cross-checked the KYC documents, visited the office address as well as the residential permanent address of the Traders at Jamshedpur, Jharkhand and it was found that no such parties were carrying out their business at their given address furnished in the account opening forms and also they are not residing in their permanent residential address at Jamshedpur. During investigation, it was found that the FIR named accused persons entered into a criminal conspiracy among themselves and others, and pursuant to that conspiracy they opened those accounts by producing forged documents and used those accounts for fictitious transactions involving Rs.77 Cr. (approx). Some of the persons from whose accounts the dubious funds were transferred in those accounts disclosed that they intended to invest in Forex trading and got in touch with one IX Global Training. Subsequently, they were given training in IX Global Platform and on instruction of them, they had invested money in TP Global FX Application for earning more, and in that Application the alleged account numbers of Canara Bank were reflected. It was further revealed from Investigation that the present applicant, the distributor of IX Global LLC are the kingpin who conspiring with other accused persons were misguiding the crowed and cheating money with false pretext of earning huge returns by Forex Trading using the Platform of TP Global FX. On the basis of the said allegation, the crime was registered vide Crime No.290/2022 at Hare Street police station, Kolkata. During investigation, the involvement of the present applicant is revealed in other offences also and the other offence is also registered vide Crime No.297/2022. During the pendency of the said crime, the present crime is also registered at Economic Offence Wing, Nagpur wherein it is alleged that the present applicant has induced various investors to invest the amount and there was a chain marketing. In the said chain the applicant has added some persons and those persons have added the complainant and the other investors and the complainant and the other investors are duped by obtaining the money from them.

4. Heard learned Senior Counsel for the applicant who submitted that initially two offences are already registered against the present applicant, therefore, this third offence can't be registered against him on the similar allegations. He submitted that now the applicant is already released on bail in a major offence which was registered at Kolkata wherein the Kolkata High Court has considered the entire transactions which enter into by the present applicant and by considering the catena of decisions including ***Sanjay Chandra Vs. Central Bureau of Investigation [(2012) 1 SCC 40], P. Chidambaram Vs. Central Bureau of Investigation [(2020) 13 SCC 337]*** and also considered the case of ***Manish Sisodia Vs. Directorate of Enforcement [SLP Criminal No.8781 of 2024]*** by observing that Constitutional mandate is higher law, and it is basic right of the person charged of an offence and not convicted that he be ensured and given a speedy trial. When trial is not proceeding for reasons not attributable to the accused, the Court unless there are good reasons would be guided to exercise the power to grant bail.

5. Learned Senior Counsel further submitted that considering the volume of the documents and already two offences are registered at Kolkata there is no possibility of disposal of the case at the earliest. Considering that though involvement of the present applicant is in the economic offence but in view of the tripod test laid down by the Hon'ble Apex Court in ***P. Chidambaram Vs. Central Bureau of Investigation*** *(supra)* the applicant is not at a flight risk, and therefore, he be released on bail.

6. Learned APP strongly opposed the application on ground that considering the involvement of the present applicant in the economic offence, if he is released on bail he would not be available for trial and trial would be held up. Hence, the application deserves to be rejected.

7. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that Crime No.290/2022 was registered against the Directors of "IX Global" and "TP Global" namely Shailesh Kumar Pandey, Rohit Kumar Pandey, Arvind Pandey, Prasanjit Das, Tushar Patel, Manish Kumar Patel, Kaushal Kumar Sah, Aman Thakur, Pankaj Kumar Tiwary, Rahul Kumar Akela, Rakesh Kumar Singh, present applicant and Joseph Martinez were involved. The summary of charge-sheet shows that during course of investigation, it transpired that the above accused persons entered into criminal conspiracy and in pursuance of that, they opened fictitious bank accounts in Canara Bank by forged documents and by using those documents, they made fictitious transactions for the purpose of cheating. During

investigation, it revealed that co-accused Joseph Martinez, CEO, "IX Global" and the present applicant, the Distributor of the "IX Global" were misguiding the crowd and cheating by obtaining money of earning huge returns by "Forex Trading" using the platform of "TP Global FX".

8. Perusal of the investigation papers shows that the "IX Global" flouted Scheme that if individual subscriber, on payment of subscription fees, invests amount and purchases Subscription Plan, the said individual subscriber becomes a Member and on becoming the Member, if he adds or recommends other persons and said other persons pays subscription fees, he gets bonus or commission. Thus, it is a Chain Marketing. The applicant appears to be the head of the said scheme along with the other co-accused and the said chain marketing was under the present applicant along with the other co-accused. Several investors have invested the amount. Thus, as far as the involvement of the present applicant in the economic offence is concerned is revealed.

9. However, considering that the applicant is already released on bail in connected crimes i.e. Crime Nos.290/2022 and 297/2022 by considering the pronouncement of the Hon'ble Apex Court in the case of *P. Chidambaram Vs. Central Bureau of Investigation* *(supra)* as well as *Sanjay Chandra Vs. Central Bureau of Investigation* *(supra)* and *Manish Sisodia Vs. Directorate of Enforcement* *(supra).* The aspect of the economic offence is also considered by the Hon'ble Apex Court in the case of ***Satender Kumar Antil Vs. Central Bureau of Investigation [(2022) 10 SCC 51]***

wherein the Hon'ble Apex Court has considered that whether the economic offence is to be treated as a class of its own or otherwise and held that this issue has already been dealt with by this Court in the case of ***P. Chidambaram v. Directorate of Enforcement*** *(supra)*, after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgements, will govern the field and referred the judgment of ***P. Chidambaram v. Directorate of Enforcement*** *(supra)* wherein in para No.23

> *"23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence"*

and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial."

10. The Hon'ble Apex Court further refers the decision of *Sanjay Chandra Vs. Central Bureau of Investigation* (supra) wherein it is observed that :

"39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds: the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and

forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

11. In view of the above observation, admittedly, the grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. As far as present case is concerned, admittedly, there is nothing on record to show that the applicant is at a flight risk. The applicant is a permanent resident of Mumbai. His property is already attached by the authorities during the investigation. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and also to secure the presence of the accused before the Court. At this stage, considering the fact that, the applicant is already released on bail in other two offences and considering the observation of the Hon'ble Apex Court that the Constitutional mandate is higher law, and it is basic right of the person charged of an offence and not convicted that he be ensured and given a speedy trial. Considering the volume of the documents where is less possibility of disposal of the trial at the earliest.

12. In the above said circumstances, the applicant has made out a case for grant of bail. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant - Mr. Viraj s/o Suhas Patil in connection with Crime No.94/2024 registered with the non-applicant/police station for offences punishable under Sections 420, 406, 418 and 120-B read with 34 of the Indian Penal Code and under Section 66(d) of the Information Technology Act, 2008 together with Section 3 of the Maharashtra Protection of Interest of Depositors (Financial Establishment) Act, 1999, be released on bail on executing a P.R.Bond in the sum of Rs.1.00 lakh with one solvent surety, in the like amount.

(iii) The applicant shall attend the Economic Offence Wing, Nagpur once in a month i.e. 5th day of every month and the authority i.e. the Officer of the Economic Offence Wing, Nagpur shall record his presence.

(iv) The applicant shall not leave India without prior permission of the Special Court, Nagpurbv

(v) The applicant shall surrender his passport, if any, before the investigating agency and if he has already surrendered the passport in other offence, he shall submit affidavit to that extent.

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(vi) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

(vii) The applicant shall not directly or indirectly make any inducement and threat or promise to any witnesses acquainted with facts of the case either personally or by way of electronic media.

13. The application stands disposed of.

<u>(URMILA JOSHI-PHALKE, J.)</u>

**Divya*

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