2025:BHC-NAG:4261

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.281 OF 2025

Harish s/o Ashok Sharma
Vs.
State of Maharashtra, through Police Station Officer, Ramnagar, District Chandrapur

---

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

---

Mr. A. D. Hazare, Counsel for the applicant.
Ms. T. H. Udeshi, APP for non-applicant / State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2025

1. The applicant came to be arrested on 09.05.2024 in connection with Crime No.532/2016 registered with Police Station, Ramnagar, District Chandrapur for the offence punishable under Sections 420 and 409 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. The crime is registered on the basis of report lodged by Gulab Narayan Mandade on an allegation that the applicant had floated one company namely Nirmal Infrahome Corporation Limited (NICL), Bhopal. The said company floated various schemes relating to investment such as RD, FD, MIS Plan (Pension Plan) etc., by making advertisements

and by appointing agents for the said purpose. The present applicant and the other co-accused induced the various investors to invest the amount in the said company and thereby total 2042 investors have invested the amount to the tune of Rs.7,72,84,140/- and the said investors have neither received any returns nor received their principal amount, and therefore, on the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that the applicant is arrested on 09.05.2024, the charge-sheet is filed in the present crime long back on 18.11.2019. Thus, there is a delay in trial. The applicant is already released in another crime, which are registered in Madhya Pradesh (M.P.). He was also released in crime which was registered at Solapur. All the crimes are clubbed together which are registered all over the State of Maharashtra by order of the Hon'ble Apex Court dated 13^{th} July 2022. Thus, he submitted that considering there is a delay in trial and there is no possibility of disposal of the trial at the earliest. In view of that, he be released on bail.

4. Learned APP strongly opposed for the same and submitted that in all 15 offences are registered against the present applicant all over India in various States. In all more than 2000 investors have invested the amount and the stake of the

investors is also huge. If the applicant is released on bail, he would not be available for the trial and the trial would be held up. She further submitted that there is no statement by the present applicant as to the criminal antecedents in the application. Moreover, the date of arrest is also wrongly mentioned in the application. Considering that several factors are concealed by the present applicant, his bail application on the ground that he has not disclosed his criminal antecedents itself is sufficient to reject his application.

5. After hearing both sides and on perusal of investigation papers, it reveals that the applicant is arrested in the present crime on 09.05.2024. The investigation papers further shows that similar nature of the offences are registered against the present applicant in various States and total number is 15 offences. The allegation against the present applicant shows that from various investors, the investment obtained by floating various schemes under the promise of handsome returns and neither the returns were paid to the investors nor their principal amount is paid to them. The chart given by the learned APP in her reply shows the offences which are registered against the present applicant are of a similar nature. The earlier bail applications are rejected. In some of the crimes, he has been released on bail. As far as the crime registered at Solapur vide Crime No.533/2017 wherein he is released on bail as

charge-sheet is not filed within 60 days. Thus, considering the various statements of the witnesses who are investors shows the involvement of the present applicant in the alleged offence. The *prima facie* case is made out from various documents which are collected by the Investigating Officer during the investigation. Thus, as far as the merit of the matter is concerned, the *prima facie* case is made out against him and his involvement is in the economic offence. As far as the statement as to the criminal antecedents is concerned, the applicant only stated in the application especially in para No.10 that the applicant is having no criminal antecedents to his Credit arising out of any other crimes except relating to the company and he has deep roots in the society. The chart which is submitted by the learned APP, and which also reveals from the investigation papers that in all 15 offences are registered against the present applicant under Section 409, 420 read with Section 34 of the Indian Penal Code. Thus, these 15 offences are registered which are of a similar nature. Admittedly, grant of bail is a discretion of the Court which of course has to be exercised judicially. The Hon'ble Apex Court from time and again have laid down the principles and guidelines while considering application for bail. In the case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee and another** reported in **(2010) 14 SCC 496**. held :

> *"We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court*

does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail."

6. The factors, as enumerated by the Supreme Court, to be borne in mind while considering the application for bail that character, behaviour, means, position and standing of the

accused as well as likelihood of the offence being repeated. Criminal antecedent of an accused is an important fact while considering an application for bail so as to assess his character, behaviour and, particularly, "likelihood of the offence being repeated". The judicial notice can be taken that there is practice to state the criminal antecedent of petitioner in bail applications while seeking bail so as to show the *bona fide* of the accused person. Considering that the applicant has not mentioned the criminal antecedents which is an important factor for consideration while exercising the discretion of grant of bail. Non-disclosure of the criminal antecedent is an impediment in granting the bail. Moreover, on merits also the *prima facie* case is made out against the present applicant, which shows that the huge stake of the amount is involved which is the amount of the investors and which is a public money. Thus, the involvement of the present applicant is in economic offence. Considering the same, the application deserves to be rejected. Accordingly, the application is rejected.

Page No.6 is corrected as per Hon'ble Court's Order dated 21/04/2025

(URMILA JOSHI-PHALKE, J.)

Sarkate