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

CRIMINAL APPLICATION (BA) NO.801/2025
(Pranab Anand Gopal Mandal Vs. State of Maharashtra, through P.S.O., P.S. Saoner, Distt. Nagpur)

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

Mr. Anil S. Mardikar, Advocate a/b. Mr. Naveed Opai, Advocate for the applicant.
Mr. V.A. Thakare, A.P.P. for the non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.
DATE OF RESERVING THE ORDER: 9.9.2025.
DATE OF PRONOUNCING THE ORDER: 26.9.2025.

By this application, the applicant is seeking bail in connection with Crime No.961/2024, dated 06.10.2024, registered with Police Station Saoner (Nagpur Rural), District Nagpur, for the offence punishable under Sections 316(2), 317(4), 318(4), 338, 340(2), 238 and 61(2) read with Sections 3(5) of the Bharatiya Nyaya Sanhita, 2023, Sections 66(C) and 66(D) of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. The crime is registered on the basis of a report lodged by Praful Sudhakar Gahukar alleging that through his family members, he got acquainted with co-accused Vaibhav Dawande. On 29.07.2024 said co-accused took the informant to the bank, opened his H.D.F.C. bank account and deposited a sum of Rs.5000/- in the same. In the similar manner, accounts of two more persons were opened namely Praful Ganorkar and Pratik Dayaramji Gahukar. During the course of investigation, the Police Officials found that the accused persons in the present crime have allegedly duped people by telling them a scheme of installation of mobile communication tower in their

premises with the allurement of deposit of a large sum of amount in their bank accounts. It is further alleged that the accused persons also used various electronic devices to forge documents in the name of various companies such as Jio Infocomm Limited, Ministry of Communication, Bharti Infotel Limited and other reputed companies. The allegations levelled against the applicant in the final report are based on the statements of other accused persons that after the fraudulent amount was received in the account, Whats-app call was received and the co-accused persons used to transfer and withdraw the said amounts to and from multiple bank accounts. Thereafter, the cash was divided and handed over to the present applicant.

3. Learned Senior Advocate for the applicant invited attention to the recitals of the First Information Report and submitted that at the time of lodging of the report on 06.10.2024, the applicant was not named in the F.I.R. and has no nexus with the alleged offence. The allegations are based on the confessions of other co-accused persons only. In support of his contention, he submitted that the principle offence of Section 3 of the M.P.I.D. Act is not made out as in the whole charge sheet there is no evidence of applicant collecting deposits or promising the complainant or any other person to pay the amount back with or without profits. Also it is not the prosecution's case that the applicant is running any "Financial Establishment" and has collected "deposits".

4. The learned Senior Advocate for the applicant further pointed out that the Investigating Agency has not arrested the main accused Nos.1 and 2 (Vaibhav Dawande and Kamlesh Gajbhiye) who have been named in the F.I.R. and there are direct statements of witnesses wherein specific role has been attributed to them in the charge sheet.

It is pertinent to note that the Police Authorities raided Call Centre at Kolkata and arrested 14 accused persons wherein the learned Court of the Additional Chief Judicial Magistrate, Kolkata was pleased to reject the remand application and release them on bail.

5. It is submitted by the learned Senior Advocate that the applicant is engaged in the business under the trade name of M/s. Swipe Group of Hotels, which mainly deals with hotel bookings and tours and travels. The allegation that the applicant bought one flat and an expensive car from the money involved in this crime is completely false as the same was bought by the applicant 2 to 3 years prior to the occurrence of the alleged incident i.e. from 08.07.2024 to 19.08.2024. Further it is submitted that the learned trial Court without securing the presence of all 21 accused persons has framed charges against only 5 under trial prisoners which includes the applicant. The applicant did not sign the charge and requested time for exhausting other remedies, however, the trial Court did not consider the same and proceeded further and posted the matter for evidence.

6. *Per Contra*, learned A.P.P for the non-applicant/State submitted that the name of present applicant was revealed during investigation. The Investigating Agency found that the present applicant is the main accused and was running a Call Center through which gullible people were made to part with their hard earned money with a false assurance of monetary gain. The applicant came to be arrested on 11.11.2024 from West Bengal after following due procedure as is necessary under the provisions of Bharatiya Nagarik Suraksha Sanhita, 2023. It is submitted that the Investigating Agency seized various cell phones including that of i-Phone, Redmi and Oppo

company phone, ATM Cards of various banks and so on. One more file has been found in the mobile phone of the applicant which shows that the persons were made to open new account and deposit required money for opening the same. The Investigating Agency has seized pay slip from the house of the present applicant which shows that the applicant was earning a salary of rupees six thousand in the month of October, 2016. Further the applicant is owning a flat at Kolkata valued at Rs.44,90,000/-, Mercedes Car worth Rs.16,50,000/- and fixed deposit in the name of his father worth Rs.36,00,000/-. It is further submitted by the learned A.P.P. that the applicant has misused the PAN card of one Sajesh Jana for getting services from Jio Company for sending messages to a number of persons for committing the instant offence. Moreover, the mobile phones used by the applicant and co-accused are seized. The CDR and SDR are collected. From Chart of verification of CDR and SDR, it would reveal that the applicant was continuously in contact with co-accused using sims of different mobile phones having different IMEI numbers. Thus, from the material collected by the Investigating Agency, it is evident that the applicant and co-accused have committed the present crime and since the applicant and co-accused are in jail, the Investigating Officer has submitted charge sheet on 04.01.2025 for rejection of their default bail. The charge sheet is filed with liberty to file supplementary charge-sheet, if additional evidence is found in further investigation. It is pertinent to note that the investigation is still going on. Therefore, he has prayed to reject the application.

7. Heard both sides and perused the record.

8. On perusal of investigation papers it reveals that the offence under the M.P.I.D. Act is registered against this applicant. According

to the learned Senior Advocate for the applicant, offence under Section 3 of the M.P.I.D. Act is not made out. There is no evidence of applicant's collecting deposits with a promise to pay interest or profits. The applicant is not running any 'Financial Establishment' and is not collecting deposits. Hence, section 3 of the M.P.I.D. Act is not made out.

9. It appears from the charge sheet that the applicant along with other co-accused introduced mobile tower scheme and for installation of mobile communication tower, they took deposit and promised that people will get Rs.20,000/- per month rent which will be enhanced by 15% after a period of three years and one member of their family will also get a job of Rs.20,000/- per month and for installment of said tower people will get Rs.25,00,000/- deposit in the account of victims. They took deposits by sending relevant documents on their whats-app and they took Rs.15,500/- as registration fee, Rs.35,800/- for Anti-Pollution Certificate and gave excuse that due to unavailability of IGST Certificate, they could not deposit Rs.25,00,000/- in the account of victims. They transferred this money to the various bank accounts those were opened by accused No.1 Vaibhav Dawande on the say of other accused persons.

10. As per Section 3 of the M.P.I.D. Act, the consequences of such fraudulent defaults in repayment of deposit on maturity, along with any benefit in the form of interest, bonus, and profit or in any other form as promised and/or fraudulently, failed to render service as assured against the deposit, such person is liable under the provisions of the M.P.I.D. Act.

11. The offence committed by the applicant along with co-accused falls under the purview of the M.P.I.D. Act. The applicant has duped

many persons. He along with others planned to dupe needy persons, used accounts of the poor persons who were not knowing about online transactions by giving Rs.4,000/- to them. They used their accounts and mobile numbers for fraudulent transactions by the accused in said accounts. This is a big scam. Many people are involved in this case.

12. The learned Senior Advocate for the applicant has relied on the judgment of this Court in Criminal Application (BA) No.152/2025 (Mr. Viraj S/o Suhas Patil V/s. State of Maharashtra and another) wherein this Court has observed about the case of *P. Chidambaram V/s. Central Bureau of Investigation* reported in **(2020) 13 SCC 337** in support of the contention that the conditions while granting bail is based on the facts involved therein and securing presence of accused to stand trial and after considering the volume of the documents, large number of witnesses and the fact that there is no possibility of the trial at the earlier stage, this Court has granted bail in Criminal Application (BA) No.152/2025. The learned Senior Advocate argued that the offence under the M.P.I.D. Act will not be attracted as there is no collection of deposits by the applicant or he has not established any financial establishment.

13. I have gone through the judgments relied upon by the learned Senior Advocate for the applicant. As the contents of the F.I.R. show that there is a scam, by cheating gullible persons deposits are taken by giving false assurance to them that they would get interest on it. The learned A.P.P. has relied on the judgment of the Hon'ble Apex Court in the case of *Y.S. Jagan Mohan Reddy V/s. Central Bureau of Investigation* reported in **AIR 2013 SC 1933**. It is observed by the Hon'ble Apex Court in the case of *Nimmagadda Prasad V/s. Central*

Bureau of Investigation reported in **(2013) 7 SCC 466** of which para 24 reads as under:-

> *"24. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy itself as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."*

14. The learned A.P.P. has also placed reliance on the judgment in the case of *Ram Narain Poply V/s. Central Bureau of Investigation* reported **in AIR 2003 SCC 2748** in support of his argument about conspiracy, of which para 354 reads as under:-

> *"354. It was noticed that Sections 120-A and 120-B IPC have brought the law of conspiracy in India in line with English law by making an overt act inessential when the conspiracy is to commit any punishable offence. The most important ingredient of the offence being the agreement between two or more persons to do an illegal act. In a case where criminal conspiracy is alleged, the Court must inquire whether the two persons are independently pursuing the same end or they have come together to pursue the unlawful object. The former does not render them conspirators but the latter does. For the offence of conspiracy some kind of physical manifestation of agreement is required to be established. The express agreement need not be proved. The evidence as to the*

transmission of thoughts sharing the unlawful act is not sufficient. A conspiracy is a continuing offence which continues to subsist till it is executed or rescinded or frustrated by choice of necessity. During its subsistence whenever any one of the conspirators does an act or series of acts, he would be held guilty under Section 120-B of the Indian Penal Code."

In the case in hand number of persons have conspired for the commission of the crime. As the role of this applicant is that of main accused, the observations made by the Hon'ble Apex Court in the above case relating to commission of offence under Section 120-B of I.P.C. would be attracted against this applicant.

15. As the applicant is from West Bengal, he was arrested at Kolkata and the entire transaction was done by this applicant. He is the main accused. Only because it will take time to complete the trial, the applicant cannot be released on bail. Hence, the application is rejected.

(MRS. VRUSHALI V. JOSHI, J.)

Tambaskar.