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

CRIMINAL APPLICATION (ABA) NO.62/2025
(Hemandas Dayaldas Motwani and another Vs. State of Maharashtra, through Police Station Officer, Kapil Nagar, Nagpur City, Nagpur)

WITH

CRIMINAL APPLICATION (ABA) NO.52/2025
(Rajesh S/o Rameshlal Kriplani Vs. State of Maharashtra, through Police Station Officer, Kapilnagar Police Station, Nagpur)

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

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Mr. S.V. Manohar, Senior Advocate with Mr. Aadil Anwar J. Mirza, Advocate for the applicants. ..(in ABA No.62/2025)
Mr. S.S. Dewani, Advocate for the applicant. ..(in ABA No.52/2025)
Mr. C.A. Lokhande, A.P.P. for the non-applicant/State.
Ms. Gauri Venkatraman with Mr. Yash Venkatraman, Advocates to assist the prosecution.

CORAM: MRS.VRUSHALI V. JOSHI, J.
DATED: 23.12.2025.

Common order

The applicants are arrested in Crime No.16/2025 for the offence punishable under Section 3 of the Maharashtra Protection of Interests of Depositors (in Financial Establishment) Act and Sections 420, 409 and 120-B of the Indian Penal Code.

2. The prosecution story, in brief is as under:-

The informant, Harish Kimmatrao Advani, has alleged that accused No. 1 Hemandas Dayaldas Motwani and accused No. 2 Tarun Hemandas Motwani being Directors of M/s. Dwarka Ventures Private Limited and also accused No.3 Rajesh Kriplani being their Financial Advisor and Broker approached him and stated that their company has started a deposit scheme towards the sale of property and coming up with a group of Housing Project at Mouja Nari Survey Nos.144/02, 145/2, 146/2 147/1, 146/9, 148/12, 142/3, 4, 5, 144/1, 146/3 and

147/2 wherein it has proposed flats and bungalows in block Nos.A to F. The accused No.3 informed about the project and introduced him to accused persons who also informed about the same. They told the informant that they will secure the investment made by him through an agreement to sell and anybody who would invest in the scheme shall be gaining huge returns. Investments collected under the scheme would be invested for work of company by accused Nos.1 and 2 for which board resolution of the company is also passed and said scheme is for limited time and persons and once the required amount is collected, the scheme would be closed.

3. The informant, believing upon the false representations made by accused, executed an agreement with accused Nos.1 and 2 on 11.12.2022 and paid an amount of Rs.36,50,000/- in cash to them at their booking office. Similarly, he paid an amount of Rs.50,000/- by cheque favoring the company on 12.12.2022, accused No.3 i.e. applicant introduced informant with accused Nos.1 and 2 and they showed him the land on which proposed flats and bungalows would be constructed. Since the informant is resident of Amravati, he could not come to Nagpur and, therefore, they executed an agreement to sell at Amravati. The stamp paper on which the said agreement is executed is purchased by accused No.3 in the name of M/s. Dwarka Infra Venture Private Limited. As per scheme proposed by accused Nos.1 and 3, the informant was allotted flat No.203, C-Wing. As per the scheme, informant invested Rs.37,00,000/- and he was to get return of Rs.40,00,000/- on 15.05.2023 and if the company has to hold the investment then it was to address a letter to informant before seven days of expiry of said date. Since the informant did not get any

said letter, he through notice dated 29.06.2013 issued to accused Nos.1 and 2 demanded his amount. However, accused Nos. 1 and 2 replied that they have not received any amount from the informant. When the informant contacted, accused Nos. 1 and 2 threatened him and asked to do whatever he can and they have cheated various persons. Similarly, by same modus operandi the accused have cheated Smt. Kashish Sandip Advani by Rs.1,17,00,000/-, Shri. Naresh Harish Advani by Rs.92,00,000/-, Shri. Rahul Harish Advani by Rs.40,00,000/- and Shri. Sandip Chandrakant Advani by Rs.45,00,000/-.

4. Apart from informant, others have invested their money with accused by executing 'agreement of investment cum agreement to sale'. A huge amount of Rs.3,31,00,000/- is involved in the crime. Accused have cheated the investors by not returning their amount. An amount of Rs.3,31,00,000/- is misappropriated by accepting the deposits from the investors in cash and in bank account. Therefore, the custody of these applicants is necessary to find out the trail of the money, also to seize the property and to obtain the signatures of applicants for the purpose of report from Handwriting Expert.

5. Learned Senior Advocate Mr. Manohar appearing for the applicants in Criminal Application (ABA) 62/2025 has argued that there is a civil transaction between the parties. The applicants and the complainant initially were partners. The sale transaction is there. All the documents regarding Retirement of Partnership and Reconstitution of Partnership are filed on record. It was not an investment scheme. It was a sale transaction. There was settlement between the parties. The civil suits are pending between the parties.

The allegations about Section 420 of I.P.C. and registration of the M.P.I.D. Act is also not correct as the number of civil litigations between the parties are pending. The agreements are singed by both the parties. The company petition is also pending about the same property before the N.C.L.T. The petition for quashing of F.I.R. is also pending before the Division Bench. Notices are issued in said matter. There is delay in lodging F.I.R. The complaint is lodged after 2 years from the date of alleged illegal act. Alleged transaction in question relates back to the period from November-December 2022 and the complaint is lodged in July 2024 without explanation of delay. Considering the civil nature of the offence, prayed to protect the applicants by granting anticipatory bail.

6. Mr. Dewani, learned Advocate for the applicant in in Criminal Application (ABA) 52/2025 has adopted the arguments advanced by the learned Senior Advocate Mr. Manohar.

7. Learned A.P.P. opposed the application stating that though the civil transaction is stated to be pending, the applicants have duped the gullible people, huge amount is involved in the crime. The applicants are denying the amount given in cash. Number of persons are duped. To find out where said amount is invested and how many persons are duped, custodial interrogation of these applicants is necessary.

8. The complainant appeared through Advocate Mrs. Gauri Venkatraman and opposed the application stating that this is not a civil transaction. Though earlier partnership was there, it was cancelled. All the documents are filed on record. The applicants have filed on record documents regarding Retirement of Partnership.

Thereafter the agreement for investment and sale is there which itself shows that such type of agreement cannot be executed. The civil litigation is filed for the other purpose. The bail cannot be granted at the initial stage in case of economic offence. Reliance is placed on the judgment of the Hon'ble Apex Court in the case of *P. Chidambaram V/s. Directorate of Enforcement* reported in **(2019) 9 SCC 24** wherein it is observed by the Hon'ble Apex Court that Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the material which might have been concealed. The applicants have concealed the fact that this is not a sale transaction. The investment scheme concealed by these applicants and they are coming before this Court with the case by giving a civil colour to the criminal proceeding and by taking its disadvantage are praying for grant of anticipatory bail.

9. It is argued that while considering anticipatory bail in economic offence the Court must consider the large interest of public. The Hon'ble Apex Court in *Nimmagadda Prasad V/s. Central Bureau of Investigation* reported in **(2013) 7 SCC 466** has observed that 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. The Court dealing with the grant of bail can only satisfy itself as to

whether there is a genuine case against the accused and the prosecution will be able to produce *prima facie* evidence in support of the charge.

10. One of the ground raised by the applicants is that there is unexplained delay of 2 years. Reliance is also placed on the judgment in the case of *Idmund S. Lyngdoh V/s. State of Meghalaya* reported in **(2016) 15 SCC 572** in support of argument that the delay in lodging the F.I.R. is not fatal to the prosecution case. The learned Advocate has also relied on the judgment in the case of *Grasim Industries Limited and another Vs. Agrawal Steel* reported in **(2010) 1 SCC 83.** In the case of *Pratibha Manchanda and another V/s. State of Haryana and another* reported in (**2023) 8 SCC 181** the Hon'ble Apex Court has observed that regardless, the pendency of these cases does not estop the issues of forgery and fabrication being considered in the course of criminal investigation. The facts of the case speak for themselves and an element of criminality cannot be ruled out at this stage. Whether or not the alleged offences were committed by respondent No. 2 and his co-accused in active collusion with each other can be effectively determined by a free, fair, unhampered and dispassionate investigation.

11. By relying on all these above judgments, learned Advocate for the complainant has stated that custody of these applicants is necessary as they have committed a fraud of huge amount. Hence, prayed to reject the application.

12. Heard the respective learned Advocates for the parties and perused the record.

13. The documents on record show that earlier the applicants were the partners and the same property was mentioned in their partnership deed. Thereafter partnership was dissolved. The documents like Retirement of Partnership and Reconstitution of Partnership are filed on record. It appears that after executing documents about partnership all the family members of the applicants were the partners. Thereafter again deed of retirement of M/s. Dwarka Developers Private Limited is executed. The agreement-cum-reconstituted partnership deed is also filed on record. The agreement of investment-cum-agreement to sell is also filed on record which is objected by the complainant. According to the complainant, this is the forged document. There cannot be such agreement to invest. Many people are duped. Though the notarized document is filed on record and the photographs of the persons are there, it is the case of complainant that the applicants have duped all these persons and for taking specimen signatures of the applicants, their custody is required as is rightly stated by the learned A.P.P.

14. I have gone through the judgments cited by the complainant and the requirement for interrogation of the applicants.

15. Considering the pendency of company petition before the N.C.L.T., civil litigations between the parties though it is stated that the purpose of said litigation is different the subject matter is same. It also appears that the matter was sent for mediation for settlement, it appears that the custodial interrogation of these applicants is not necessary. Hence the applications are allowed.

i) It is directed that in the event of arrest of the applicants- Hemandas Dayaldas Motwani, Tarun Hemandas Motwani and Rajesh S/o Rameshlal Kriplani, in connection with Crime No.16/2025 for the offence punishable under Section 3 of the Maharashtra Protection of Interests of Depositors (in Financial Establishment) Act and Sections 420, 409 and 120-B of the Indian Penal Code, the applicants shall be released on bail on furnishing P.R. Bond in the sum of Rupees Fifty Thousand each with two solvent sureties in the like amount.

ii) The applicants shall not in any way tamper with the prosecution evidence.

iii) The applicants shall not pressurize or threaten the prosecution witnesses.

iv) The applicants shall attend the concerned police station on every Monday between 7:00 p.m. and 9:00 p.m. and in addition to this, the applicants are directed to attend the concerned police station as and when called by the Investigating Officer for further investigation.

v) The applicants to attend the concerned police station and give their specimen signatures before the police.

vi) The applicants to surrender their passports, if any.

vi) The applicants shall not enter the jurisdiction of entire Nagpur district.

vi) The applicants shall co-operate with the Investigating Officer.

(MRS.VRUSHALI V.JOSHI, J.)

Tambaskar.

Signed by: MR. N.V. TAMBASKAR
Designation: PS To Honourable Judge
Date: 23/12/2025 17:48:53