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

CRIMINAL APPLICATION (ABA) NO.768/2025
(Sonali Sameer Paltewar and others Vs. State of Maharashtra, through its Police Inspector, Sitabuldi Police Station, Economic Offence Wing, Nagpur)

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

Mr. Arshad Sheikh with Ms. Gitika Khanchandani, Ms. Sandhya Maniyar, Mr. Ranjeet Agashe, Ms. Vinsha Acharya, Advocates for the applicant.

**CORAM: MRS.VRUSHALI V. JOSHI, J.
DATE OF RESERVING THE ORDER: 10.11.2025.
DATE OF PRONOUNCING THE ORDER: 12.11.2025.**

The applicants have apprehension of arrest in Crime No.833/2025 for the offence punishable under Sections 409, 406, 420 and 120-B of the Indian Penal Code.

2. The F.I.R. was lodged by one of the Directors of the Company Mr. Ganesh Chakkarwar. Dr. Sameer Paltewar who is the husband of applicant No.1 and father of applicant Nos.2 and 3 is one of the Directors of the Meditrina. It is alleged that complainant transferred 17% out of 50% of his shares to Dr. Sameer Paltewar. The informant also appointed wife of Dr. Sameer Paltewar i.e. applicant No.1 in 2018 as the Director of the Company. In 2018 informant filed a police complaint against Sameer Paltewar at Sitabuldi Police Station alleging that Dr. Paltewar was unilaterally charging extra money from patients admitted under the government run Rajiv Gandhi Jeevandayi (Mahatma Jyotiba Phule Jeevandayi) Scheme without first informant’s permission.

3. In 2018 during Covid period the informant filed another case against Mr. Sameer Paltewar for giving patients undergoing treatment

at Meditrina Hospital high value bills but then tampering with records to show a smaller value. Mr. Sameer Paltewar, Mrs. Sonali Paltewar and their son Ninad Paltewar established a Company called 'Obviate Health Care Private Limited. It is alleged that under the name of medical consultancy they withdrew a total amount of Rs.11,41,70,540/- from the bank account of Meditrina Institute of Medical Sciences Private Limited. Money was withdrawn from the Company's bank account without the permission of the first informant which constitutes financial fraud against the informant and the Company.

4. Between 2020 to 2024 the Directors of the Company Dr. Sameer Paltewar and Mrs. Sonali Paltewar and Directors of Obviate Health Care Private Limited and the office staff continued to cause cheating and misappropriation. They misappropriated Rs.16,83,78,915/- from the Company by making false bills under the pretext of digital marketing advertisement for their financial gain.

5. Learned Advocate for the applicants submitted that the offences are alleged from 2020 onwards. However, the offence is registered only in the year 2025. The applicant Nos.2 and 3 being no way associated with the Company V.R.G., the question of commission of alleged offence by both of them does not arise. They are not entrusted with any property of the Company V.R.G. The question of misappropriation or cheating as defined under Sections 405, 409 and 420 of I.P.C. does not arise. The only role attributed to applicant Nos.2 and 3 is that the Company Obviate in which they are the Directors have received money from V.R.G. The present applicants are only indicated in the F.I.R. being wife, son and daughter of Dr. Sameer

Paltewar so as to cause more harassment without assigning any role against the applicants.

6. It is the case of the applicants that informant Mr. Ganesh Chakkarwar has committed several irregularities to the tune of more than Rs.14 Crores. It was found that without consultation with Board of Directors Mr. Chakkarwar on his own gave loans of Rs.3,19,55,358/-. It was also found that Mr. Chakkarwar was charging interest at the rate of Rs.18% per annum on the unsecured loans granted by him. The Company has filed three civil suits against the relatives and other companies of Mr. Chakkarwar for recovery of money. Several complaints were lodged by Dr. Paltewar against Chakkarwar but no cognizance was taken by the police. The writ petition was also filed by Dr. Paltewar before this Court seeking directions for registration of offence against Mr. Chakkarwar. Thereafter resolution was passed for removal of Mr. Chakkarwar from the Board of Directors of the Company. The complainant approached N.C.L.T against the said resolution by filing Company Petition and the stay to said resolution was granted by the N.C.L.T. It is urged by the learned Advocate for the applicants that present F.I.R. is a direct impact of crucial Resolution passed by the Company on 19.4.2025. N.C.L.T. has appointed an Administrator for said Company. Only because Dr. Paltewar has taken action against the first informant, the F.I.R. is registered.

7. It is urged that the crime is shown to be continued from 1.4.2020 to 31.3.2024. In 2020 applicant No.3 was 14 years of age. Applicant No.2 was 19 years of age. He was taking education in 2020. Applicant No.1 is the wife of Dr. Sameer Paltewar and she is

not a Doctor but she is an Architect. She is a share holder of said Company. The complaint was lodged about mismanagement of Company and N.C.L.T. has passed the order and appointed an Administrator.

8. The accused No.1 i.e. Sameer Paltewar is arrested in this offence. The offence against applicant Nos.2 and 3 is not registered but as they are Directors of Obviate Company and allegations are made against said Company, they have an apprehension of arrest.

9. It is further argued that offence under Section 409 of I.P.C. is registered. As per the provisions of section 409 of I.P.C. it is against public servant. The Company is a private Company and offence under Section 409 of I.P.C. will not be attracted. For the offence under Sections 406 and 420 of I.P.C. punishment is not more than 3 years. Sections 406 and 420 of I.P.C. will not go hand-in-hand. He has relied on the observations made in judgment of the Hon'ble Apex Court in the case of *Arshad Neyaz Khan V/s. State of Jharkhand and another* reported in **2025 DGLS 9SC 1249**.

> *"21. Furthermore, it is pertinent to mention that if it is the case of the complainant/respondent No.2 that the offence of criminal breach of trust as defined under Section 405 IPC, punishable under Section 406 IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined in Section 415, punishable under Section 420 IPC. This Court in Delhi Race Club (1940) Limited vs. State of Uttar Pradesh, (2024) 10 SCC 690 observed that there is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal*

> *breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriates the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver a property. In such a situation, both offences cannot co-exist simultaneously. Consequently, the complaint cannot contain both the offences that are independent and distinct. The said offences cannot co-exist simultaneously in the same set of facts as they are antithetical to each other."*

10. In support of argument that there is an arbitration clause and the dispute is between two Directors of the Company, reliance is placed on the judgment of this Court in case of *Tejas Lalit Soni V/s. State of Maharashtra and another* reported in 2025 DGLS (Bom.) 1633. The civil litigations are pending against the first informant. Reliance is also placed on **(2024) 13 SCC 614** (*Jay Shri and another V/s. State of Rajasthan*) wherein it is observed that mere breach of contract does not amount to an offence under Section 420 or 406 of I.P.C. unless fraudulent dishonest intention is shown right at the beginning of transaction. It is cautioned by the Supreme Court about converting purely civil disputes into criminal cases. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. The applicants have pointed out that when the husband of applicant No.1 has filed complaints against the first informant, the police had asked him to go before different authorities for redressal of his grievance. There are no allegations about cash transactions against these applicants. The properties of the applicants are already seized. The custodial interrogation of these applicants is not required. Applicant Nos.2 and 3 are the students.

Their future will be spoiled if they are taken in custody. Applicant No.1 is an Architect. There are no allegations against all these three applicants. The allegations are against accused No.1 Dr. Sameer Paltewar who is already arrested and the properties are also seized. In such a situation, the custodial interrogation of these applicants is not necessary. Hence, prayed to protect the applicants by grating anticipatory bail.

11. The learned A.P.P. opposed the application stating that an offence under Section 409 of I.P.C. is registered against these applicants which does not limit to public servant. The applicants are the Directors of the Company and as per definition it includes ‘agent’ and, therefore, an offence under Section 409 of I.P.C. will be attracted. The criminal past records of these applicants are not disclosed. The applicant Nos.2 and 3 since they attained majority started getting salary in lakhs. Though no event was conducted in the name of Meditrina, the bills were given in the name of Meditrina which amounts to breach of trust. The address of Obviate is the same to that of Meditrina. Though applicants have stated that they have co-operated with the police, it is only after umbrella of protection by the Hon’ble Supreme Court and they appeared before the police. Criminal acts of applicants are not disclosed which is mandatory as per the observations made in the case of Munnesh V/s. State of Uttar Pradesh [Petition(s) for Special Leave to Appeal (Cri.) No(s).1400/2025]. The applicant Nos.2 and 3 though are students they have received huge amount of salary and they are Directors and custodial interrogation of these applicants is necessary. Hence, prayed to reject the application.

12. The complainant has filed an application to assist the prosecution. The learned Advocate for the complainant has filed written notes of arguments and opposed the application stating that an arbitration cannot be a substitute to the criminal prosecution. An offence under the provisions of Prevention of Money Laundering Act will be attracted against these applicants. Being Directors, they are agents of the Company and, therefore, offence under Section 409 of I.P.C. will be attracted against these applicants. He has stated that bail application is misleading which tries to give criminal conduct a look of civil dispute. The complainant has relied on the judgments in support of his argument that the victim has right to oppose the application. As the applicant/complainant is allowed to argue the matter and has filed written notes of arguments, no need to consider the said judgments. Other judgments are also considered which the applicant/complainant has filed on record.

13. Heard the learned Advocate for the applicants, learned A.P.P. and the learned Advocate for the first informant.

14. It appears from the record that the applicants are the family members of the accused No.1 who is arrested and is in jail. The first informant and the accused No.1 Sameer Paltewar are the Directors of the Company. The dispute arose between both of them and they have lodged complaints against each other. Due to mismanagement in the Company, complaint was lodged before N.C.L.T., it has taken cognizance and an Administrator is appointed. Before lodging of the F.I.Rs. it reveals from the documents filed on record that resolution was passed by the Board of Directors of the Company for removal of the first informant from the Board. The stay was granted by the

N.C.L.T. to said removal. It is brought to the notice of this Court that the civil suits are pending against the first informant. The criminal complaints which were lodged by accused No.1 against the first informant, an advise was given to go before the different authorities for redressal of his grievance. The cognizance was not taken by the police on the complaints lodged by accused No.1.

15. On perusal of F.I.R. it appears that all the allegations are made against accused No.1. Though salary was shown to be given to applicant Nos.2 and 3, applicant No.2 is a Doctor, he was 19 years of age at that time and applicant No.3 was minor when the offence is stated to have commenced. According to learned Advocate for the applicants this act amounts to criminal activity and is not disclosed. Although applicant Nos.2 and 3 are directors of Company, it appears from the material placed on record, *prima facie*, that they might not have been involved in each and every aspect of misappropriation of funds. The reliance is placed on the observations made by the Hon'ble Apex Court in the case of *Gurbaksh Singh Sibbia:Sarbajit Singh V/s. State of Punjab* reported in **1980 DGLS (SC) 179** in support of argument that for granting anticipatory bail there must be a 'special case. Observations are made "one ought not to make a bugbear of power to grant anticipatory bail". Reliance is also placed on the judgment in the case of *Harsh Sawhney V/s. Union Territory Chandigarh* reported in **1978 DGLS (SC) 64** wherein it is observed that documents can be recovered without taking the applicant in custody. Considering the civil nature of the allegations and the fact that civil suits are pending, N.C.L.T. has taken cognizance and an

Administrator is already appointed, custodial interrogation of these applicants is not required. Hence, the application is allowed.

i) It is directed that in the event of arrest of the applicants - Sonali Sameer Paltewar, Ninad Sameer Paltewar and Paulomi Sameer Paltewar, in connection with Crime No.833/2025, registered with Sitabuldi Police Station, Economic Offence Wing, Nagpur for the offence punishable under Sections 409, 406, 420 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 Twenty Five Thousand each with one solvent surety 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.

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

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

vii) The applicants are directed not to leave country till filing of the chargesheet without permission of the Court.

(MRS.VRUSHALI V.JOSHI, J.)

Tambaskar.