IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-26815-2024(O&M)
Date of decision : 22nd December, 2025

Mukesh Modi

...Petitioner

Versus

Serious Fraud Investigation Officer

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vikram Chaudhary, Senior Advocate with
Mr. Keshavam Chaudhary, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Ms. Puneeta Sethi, Senior Panel Counsel for SFIO.

Mr. J. S. Lalli, Deputy Solicitor General of India with
Mr. Manish Verma, Advocate
for the respondent – UOI.

***

MANISHA BATRA, J :-

The instant petition has been filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in Criminal Complaint No. 3 of 18.05.2019, bearing CIS No. COMA/05/2019, titled as ***SFIO vs. Adarsh Build Estate Ltd. And others***, filed under Sections 120-B, 417, 418, 420 and 477A of IPC, Sections 211(7), 227 and 628 of the Companies Act, 1956 and Sections 147 and 447 of the Companies Act, 2013(for short, '*Companies Act'*), pending in the Court of the Sessions Judge, Gurugram.

2. The aforementioned complaint has arisen out of order dated 20.06.2018 passed by the Central Government through Ministry of Corporate Affairs **(hereinafter referred to as '*MCA*')** whereby MCA in exercise of the powers conferred under Section 212(1)(c) of the Companies Act and Section 43(2)and (3)(c)(i) of the Limited Liability Partnership Act, 2008 (**For short, '*LLP Act*'**), ordered investigation into the affairs of Adarsh Group of Companies and its 125 Limited Liability Partnership Companies (hereinafter referred to as '*companies under investigation' '**CUIs'**)* by Serious Fraud Investigation Office (for short '*SFIO')* on the allegations of siphoning off funds of Adarsh Credit Cooperative Society Limited (For short, **'*ACCSL*'**). As per the investigation conducted, funds of the ACCSL, which actually belonged to 22 lakhs depositors and were of amount of several crores of rupees, were received by the CUIs on unsubstantiated and questionable projected balance sheets and financial statements. Both ACCSL and CUIs were found to be controlled by the present petitioner who along with his family members, was found to be involved in the economic fraud. After conducting inquiry and investigation, the petitioner along with the co-accused Rahul Modi was arrested on 10.12.2018, after recording reasons to believe that they had committed an offence punishable under Section 447 of the Companies Act by utilizing the CUIs incorporated by the petitioner in conspiracy with the others for siphoning off the funds belonging to 22 lakh depositors with ACCSL. In the complaint, the petitioner was arrayed as accused No. 113. This complaint has to be considered as a report presented

under Section 173 of Code of Criminal Procedure (For short, '**Cr**.P.C.') in terms of provisions of Section 212(15) of the Companies Act.

3. Vide order dated 03.06.2019, passed by the learned Sessions Judge-cum-Special Judge, under Companies Act, the petitioner was summoned under Section 447 of the Companies Act read with Sections 406, 417, 418, 420, 467, 468, 471 and 474 read with Section 447 of Indian Penal Code. Process was also issued against the other individuals and companies arraigned as accused for commission of offences punishable under Section 447 of the Companies Act and under different provisions of Indian Penal Code. Allegations against the petitioner are that he was founder of ACCSL. He along with his family members and associates had incorporated 70 CUIs who in connivance with each other fraudulently secured loans from ACCSL. Loans of more than 1700 crore were availed by the above said CUIs (during the financial years 2010-2011 till financial year 2017-18). The investigation also revealed the manner in which funds belonging to the society had been siphoned off in active connivance with the petitioner.

4. It is argued by learned counsel for the petitioner that he is an aged and ailing person who has been falsely implicated in this case. He was neither founder nor director nor employee of ACCSL and was not involved in day to day functioning of the society for a period of more than seven years and infact had nothing to do with its affairs. He was a non active director only in two CUIs and had no role to play in day to day activities of even those CUIs. He was one of the directors in CUI named as Adarsh Build Estate Limited

(**ABEL**). The MCA extended the scope of its investigation by adding 20 more companies and individuals though it was only required to conduct investigation into affairs of 125 companies related to Adarsh Group of Companies and its LLPs. He has been extended benefit of bail in case filed under the Prevention of Money-Laundering Act, 2002 (For short, '***PMLA Act'***) by Special Court, Jaipur. His arrest by the respondent-SFIO was in complete violation of the procedure established by law as neither there was any material in possession nor respondent had any reason to believe that he was guilty of offences for which he has been summoned. He has undergone long incarceration which is a sufficient ground for grant of bail. There are no prospects of conclusion of the trial in near future since even charges have not been framed so far. His continued detention would not serve any useful purpose. Most of the co-accused have been extended benefit of bail. On parity, he too deserves to be extended the same benefit. With these broad submissions, it is urged that the petition deserves to be allowed and he deserves to be extended benefit of regular bail. To fortify his arguments, learned counsel for the petitioner has placed reliance upon ***Jainam Rathod vs. State of Haryana, 2022 SCC OnLine SC 1506, Sujay U Desai vs. SFIO, 2022 SCC OnLine SC 1507; Amarjeet Sharma vs. Serious Fraud Investigation Office, 6921/2025; Ranjit Singh Brhamsing Sharma vs. State of Maharashtra and another (2005) 5 SCC 294; Union of India vs. K.A. Najeeb (2021)3 SCC 713; Ashish Mittal vs. SFIO, 2023 SCC Online Del 2484*** and ***Satender Kumar Antil vs. CBI and another (2022) 10 SCC 51.***

5. The respondent-SFIO has filed reply. Learned Senior Panel counsel for SFIO and learned Deputy Solicitor General of India for-UOI have argued that there are serious and specific allegations against the petitioner who alongwith his nephew i.e. co-accused Rahul Modi, some other family members and associates was master behind with a big fraud committed by the CUIs controlled by him. Funds belonging to 22 lakhs innocent depositors with ACCSL which amounted to more than Rs. 10 crores have been siphoned off by the petitioner and the co-accused in connivance with each other. The allegations prima facie make out a case for commission of offence punishable under Section 447 of the Companies Act and the offences under Sections 406, 417, 418, 420, 467, 468, 471 and 474 read with Section 447 of IPC.

6. It is further argued that the investigation has revealed that the petitioner was director in 48 out of 70 CUIs who have secured funds in an illegal and fraudulent manner from ACCSL. It was he who being controller of ACCSL, was also involved in grant of approval to loan applications/ moratorium requests submitted by 70 companies belonging to Adarsh Group. He along with the co-accused was signatory to cash pay-in-slips of two companies whereby cash was withdrawn. He being at the helm of affairs of ACCSL was actively involved in arranging accommodation entries by conniving with the co-accused. His act and conduct constitute a prima facie case for commission of economic offence of a great magnitude.

7. It is further submitted on behalf of the respondent that the petitioner is a habitual offender, since as many as 419 cases have been

registered against the petitioner. He has been securing benefit of interim bail in one or the other of those cases which are pending within the jurisdiction of Rajasthan courts even now he is on interim bail not only in one case but all the other cases so pending including the present one. He has been misusing the process of court. There are chances of his absconding if this petition is allowed, and benefit of regular bail is granted to him. It is, thus, stressed that the petition does not deserve to be allowed. In support of the contentions so raised, reliance has been placed upon the authorities cited as ***Rohit Tondon v. The Enforcement Directorate, 2018(5) RCR (Criminal) 35 (SC)***, **Narcotic Control Bureau vs. Mohit Agarwal, 2022 INSC 730 and Tarun Kumar vs. Assistant Director Directorate 2023, INSC 1006**.

8. Arguments addressed by learned Senior counsel for the petitioner and learned Senior Panel counsel for SFIO as well as Deputy Solicitor General of India have been heard and material placed on record has been carefully perused.

9. At the outset, it would be apt to note that apart from being summoned under various provisions of Indian Penal Code, the petitioner has been booked for commission of offence punishable under Section 447 of the Companies Act which pertains to the "punishment for fraud" and which reads as under:-

> "**447. Punishment for fraud.**—Without prejudice to any liability including repayment of any debt under this Actor any other law for the time being in force, any person who is found to be guilty of fraud, [1] [involving an amount of at least ten lakh rupees or one per cent. of

the turnover of the company, whichever is lower] shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud:

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

[2][Provided further that where the fraud involves an amount less than ten lakh rupees or one per cent. of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to [3] [fifty lakh rupees] or with both.]

Explanation.—For the purposes of this section—

(i) "fraud", in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;

(ii) "wrongful gain" means the gain by unlawful means of property to which the person gaining is not legally entitled;

(iii) "wrongful loss" means the loss by unlawful means of property to which the person losing is legally entitled."

10. Then Section 212(6) of the Companies Act which pertains to the "Investigation into the affairs of Company by Serious Fraud Investigation Office" is also relevant for the purpose since as per the provisions of this Section, the bail plea qua an offence under Section 447 has to be considered as per the requirements of this provision that too after giving observation that

the applicant is not prima facie guilty of the offence alleged and that he is not likely to commit any offence on bail. This provision starts with a non-obstante clause. The same is reproduced as under:-

> "(6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), 1[offence covered under section 447] of this Act shall be cognizable and no person accused of any offence under those sections shall be released on bail or on his own bond unless—
>
> (i) the Public Prosecutor has been given an opportunity to oppose the application for such release; and
>
> (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail:
>
> Provided that a person, who, is under the age of sixteen years or is a woman or is sick or infirm, may be released on bail, if the Special Court so directs:
>
> Provided further that the Special Court shall not take cognizance of any offence referred to this sub-section except upon a complaint in writing made by—
>
> i. the Director, Serious Fraud Investigation Office; or
>
> ii. any officer of the Central Government authorised, by a general or special order in writing in this behalf by that Government."

11. In ***Rohit Tondon's case (supra)***, the Hon'ble Supreme Court had observed that the sweep of Section 45 of the Prevention of Money Laundering Act, 2002 (for short, '*PMLA')*, was limited to Section 212(6) of the Companies Act and it has overriding effect on the general provisions of Code of Criminal Procedure. It was observed that the conditions enumerated in Section 45 of PMLA, which are that the prosecution must be given an

opportunity to oppose the application for bail, the Court must be satisfied that there are reasonable grounds for believing that the accused person is not guilty of such offence and that he is not likely to commit any offence while on bail, are mandatory and should be complied with even in respect of an application for bail moved under Section 439 of the Code of Criminal Procedure. It was also observed that the economic offences having deep-rooted conspiracies and involving huge loss of public funds, need to be viewed seriously and considered as grave offences.

12. As regards, the twin conditions for grant of bail contained in Section 45 of PMLA, the Hon'ble Supreme Court had made following observations in ***Vijay Madanlal Choudhary and others v. Union of India and others, 2022 SCC OnLine SC 929***.

> "412. As a result, we have no hesitation in observing that in whatever form the relief is couched including the nature of the proceedings, be it under Section 438 of the Code or for that matter, by invoking the jurisdiction of the Constitutional Court, the underlying principles and rigors of Section 45 of **Act, 2002** must come into play and without exception ought to be reckoned to uphold the objectives of the 2002 Act, which is a special legislation providing for stringent regulatory measures for combating the menace of money laundering."

13. In ***Gautum Kundu v. Directorate of Enforcement (Prevention of Money-Laundering Act, Government of India, (2015) 16 SCC 1***, the Hon'ble Supreme Court observed that conditions specified under Section 45 of PMLA are mandatory and need to be complied with even in respect of an

application for bail made under Section 439 of Cr.P.C.

14. In ***V. Senthil Balaji vs. The Deputy Director, Directorate of Enforcement, 2024 INSC 739,*** the Hon'ble Supreme Court had observed that the stringent provisions for grant of regular bail do not take away the power of constitutional courts to grant bail on the grounds of violation of part III of Constitution of India.

15. In ***Y.S. Jaganmohan Reddy vs. Central Bureau of Investigation,*** **2013 (3)** ***RCR*** **(Criminal) 108 SC*,*** it was observed by Hon'ble Apex Court that economic offences constituted a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep rooted conspiracies and involving huge loss of public funds, need to be viewed seriously and considered as grave offences effecting the economy of county as a whole and thereby causing serious threat to the financial health of the country. It was further observed that while granting bail, the court is required 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 possibilities of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with and the larger interest of public/State and other similar considerations. Similar observations were made by Hon'ble Apex Court in ***Nimmagadda Prasad Vs. Central Bureau of Investigation 2013 (3) RCR (criminal) 175 (SC)*** and in ***State of Gujarat vs. Mohan Lal Jeetamalji Parwal and another, (1987) 2 SCC 364***.

16. In ***Jainam Rathod's case (supra)***, who is one of the co-accused in this very case, the Hon'ble Supreme Court has extended benefit of bail while taking into consideration the provisions of Section 212(6) of the Companies Act and the period spent by the above said accused in custody. In ***Sujay U. Desai's case (supra)***, the twin conditions under Section 212(6) of the Companies Act were attracted, however, the Hon'ble Supreme Court has extended benefit of regular bail after noting down the period of continued detention of the petitioner.

17. In ***K.A. Najeeb's case (supra)***, the Hon'ble Supreme Court while dealing with the Section 43-D(5) of The Unlawful Activities (Prevention) Act, 1967 (UAPA) (which is pari materia with Section 212(6) of the Companies Act) had observed that the statutory restrictions did not oust the ability of constitutional courts to grant bail on ground of violation of part III of the constitution.

18. In view of the observations made by the Hon'ble Apex Court in ***Jainam Rathod's case (supra)***, ***Sujay U. Desai's case (supra)*** and ***K.A.Najeeb's case (supra)***, it emerges that twin conditions under Section 212(6) of the Companies Act can be diluted in particular cases, however, it is to be seen as to whether the petitioner in this case deserves to be extended benefit of bail by dilution of these statutory restrictions? On a perusal of allegations levelled in the complaint as well as observations made by the learned Special Judge in the order dated 03.06.2019, it is clear that a prima facie case for commission of offences punishable under Section 447 of

Companies Act and Sections 406, 417, 418, 420, 467, 468, 471 and 474 of IPC has been made out as against the petitioner, who in the capacity of founder of ACCSL involved himself in grant of approval of loan to 70 CUIs, signed falsified balance sheets of some CUIs, was signatory to cash pay in slips, was actively involved in arranging of accommodation entries and being director of 48 out of 70 CUIs secured funds illegally and fraudulently from ACCSL which are alleged to have been siphoned off. That apart, the petitioner is involved in 419 other cases. As per the allegations, funds of about 1700 crore as deposited by public persons with ACCSL were siphoned off in active connivance of the petitioner with the co-accused. As such, it cannot be stated that he is not likely to commit any other offence while on bail subject to further exceptions. Detailed investigation has been conducted in the matter which shows that Adarsh Group of Companies and its CUIs were involved in business of real estate but their only source of funds was the loan availed from ACCSL. The said loan is prima facie shown to have given to CUIs operated by the petitioner without any proper documentation. These CUIs are now shown to have approached NCLAT. Money is shown to have been withdrawn by the petitioner, who was having active control of ACCSL. His case squarely falls under Section 212(6) of the Companies Act. He was the master mind of the transaction that allegedly took place between ACCSL, CUIs and associates of these CUIs. Allegations against him are quite serious in nature. As such, this Court finds no sufficient reason for holding that this Court being constitutional Court should grant benefit of bail to the petitioner.

19. It also requires mention that the report from the Central Jail, Jodhpur has been sought by this Court which shows that the petitioner is now involved in as many as 419 cases, several FIRs and complaints by SFIO have been registered/filed against him in different States of this country. It is also revealed from this report, that he has been extended benefit of interim bail till 07.03.2026 by High Court of Rajasthan at Jodhpur in Criminal Writ Petition No. 2334 of 2025, whereby he has been extended benefit of interim bail in all the cases registered against him. This report also shows that he has remained in custody for a period of five years, two months, and eight days. Though, he was taken into custody six years, five months and twenty-seven days back meaning thereby that he has remained on interim bail for a period of one year, three months and nineteen days. As per the custody certificate received from District Prison, Gurugram, the petitioner has remained in custody for a period of five years, four months and twenty-eight days and has been involved in 420 cases the details of which are the same as sent by the Central Prison, Jodhpur. On perusal of *zimni* orders passed by the learned Special Court some of which are placed on record, it is clear that some or the other accused have not been appearing before it and that is the reason for not framing of charges. The delay as such cannot be attributed to the respondent-complainant in any manner whatsoever. Taking into consideration the nature of accusations, the severity of the punishment, the number of cases in which the petitioner is involved and the above discussed circumstances peculiar to this case, this Court is of the considered opinion that the petition does not deserve to be allowed.

Accordingly, the same is dismissed.

20. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

21. It is further clarified that since as per the custody certificate, the petitioner is on interim bail till 07.03.2026, in pursuance of some orders passed by Rajasthan High Court at Jodhpur, but as he has not been extended any such benefit by this Court at any point of time, therefore, the Court of learned Special Judge may proceed against the petitioner in accordance with law to secure his presence. The trial Court is also directed to expedite the trial by making all possible efforts which may include separation of trial against the accused whose presence has not been secured so far.

22. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

22nd December, 2025
Parveen Sharma

1. Whether speaking/ reasoned : Yes / No
2. Whether reportable : Yes / No