IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

945 BAIL APPLICATION NO. 1493 OF 2026

Dashrath Vitthal Shitole Alias Bapu Shitole

VERSUS

The State Of Maharashtra

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Mr. R. N. Dhorde a/w Mr. Harshavardhan Shinde i/by Mr. Vikram R. Dhorde Advocate for Applicant
Mr. S. A. Gaikwad, APP for the Respondent-State

CORAM : HITEN S. VENEGAVKAR, J.

Dated : 8th October, 2026

PER COURT :-

1. Heard learned Senior Advocate appearing for the Applicant and learned APP for the State.

2. By the present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant is seeking regular bail in connection with Crime No.532 of 2024 registered with Parner Police Station, District Nandurbar for the offences punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code also under section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (MPID Act). The applicant was arrested on 27.01.2025 and since then, he is in custody. Investigation is complete and the charge-sheet including the material emanating from the forensic audit has been filed on record.

3. The prosecution case, in brief, is that the Raje Shivaji Gramin Bigarsheti Sahakari Patsanstha Maryadit, Kanhur Pathar Tq. Parner Dist. Ahilyanagar ('the Society' for short) accepted deposits from members by promising repayment with interest. When several deposits matured, the society failed to repay them. During the audit of its affairs for the period from 29.07.2021 till 30.07.2024, several irregular loan transactions were noticed. It is alleged that the chairman, the manager, members of the managing committee and certain borrowers acted in consort and caused funds of the society to be disbursed through irregular or fictitious loan accounts. The overall defalcation is alleged to be in the range of Rs. 66 crores to Rs. 70 crores. The forensic audit report further refers to irregular loans amounting to approximately Rs. 37 crores, sanctioned in favour of 23 borrowers.

4. Sofar as the present applicant is concerned, the prosecution alleges that he is the Proprietor of Shri Swami Samarth Seedling and was closely associated with the Chairman of the society. It is alleged that an aggregate loan of more than Rs.13 crores has been sanctioned in the name of the applicant and seven other borrowers who are linked with the present applicant and Swami Samarth Seedling firm. Each loan was for an amount of Rs. 50 lakhs, and the loan proceeds were ultimately diverted to an account connected with the present applicant. According to the prosecution, although the individual lending limit was only Rs.75 lakhs, the transaction was structured to eight borrowers to

facilitate disbursement of the entire loan amount as alleged by the prosecution. It is further alleged that the loan did not have the requisite approval of the Board of Directors, adequate proof of the borrowers income or material demonstrating their capacity to repay. On that basis, the prosecution alleges that the applicant was not an innocent borrower but the participant in the arrangement deviced by the chairman and manager to divert the funds of the society.

5. The learned senior counsel appearing for the applicant submits that the applicant is not the member of the managing committee nor an office bearer or an employee of the society. The applicant is admittedly a borrower. The decision to sanction and disburse the loan was taken by those managing the affair of the society. The applicant and the seven other borrowers executed registered mortgage deeds in respect of their agricultural land admeasuring approximately 22 hectare and 34 Ares as security for the aggregate loan to the society. Therefore, this is not the case in which the loan was disbursed without any security whatsoever.

6. The learned senior counsel further submits that the amount personally attributed to the present applicant is only Rs.50 lakhs. The allegation that the proceeds were thereafter transferred or diverted to the different accounts is founded entirely upon banking transactions and the documentary records which are already in the custody of the

Investigating Agency. The applicant's mortgaged property has not yet been attached under the scheme of the MPID Act. Part of the loan amount has also been repaid. Whether the mortgage was sufficient, whether the loan was utilized for the stated purpose and whether the applicant issued instructions or authorized for the subsequent transfer are the matters which require evidence at the time of trial.

7. The principal reliance of the applicant is mainly on the parity with the accused persons who have already been released on bail. It is submitted that several accused persons in the same crime have been released on bail. Accused Raju Baburao Katore, who was alleged to be a borrower of Rs.50 lakhs and to have diverted the loan amount from its stated purpose was released on bail by this Court. Accused Popat Bolhaji Dhavale was released on bail on the basis of the similar allegations by the Hon'ble Supreme Court by its order dated 30.04.2026 after taking into consideration period of incarceration and the grant of bail to similarly situated co-accused Bajiraao Shankar Panmand, who was also released by the Hon'ble Supreme Court on 11.02.2026. The learned counsel further places reliance on the accused Suraj Machhindra Mahadik and Kiran Machhindra Mahadik, against each of whom, loan transaction of Rs.50 lakhs and subsequent diversion of the amount was alleged, have also been granted bail. It is, therefore, submitted that no legally sustainable distinction exists for

continuing the present applicant's custody.

8. The learned APP, however, opposes the application vehemently. He submits that the applicant's case is not confined to an ordinary default in repayment of a secured loan. The allegation is that the eight loan accounts were created and used to channel an aggregate amount of more than Rs. 13 crores of the society to the applicant and his concerns. The forensic audit records that the loan exceeded the permissible limits when the transaction is considered in its substance. He also argues that the loan has been sanctioned without there being any proper approval of the managing committee and the borrowers had not produced sufficient material regarding their individual income and repayment capacity. The registered mortgage, according to the prosecution, does not explain or legitimize the alleged diversion of the proceeds. Having regard to the overall fraud committed against the large number of depositors, the applicant is not entitled for bail merely because certain other accused have been released.

9. I have considered the rival submissions and have also examined the material relating to the role attributed to the present applicant. The allegation concerns a substantial economic offence affecting a large number of depositors. Existence of a registered mortgage by itself would not answer the allegation that the loan was obtained through a pre-arranged arrangement and that the proceeds

were diverted to a person or purpose different from that for which the loan was shown to be sanctioned. The adequacy and genuineness of the security, the authority under which the transfers were effected, and whether the applicant acted in consort with the chairman and manager will necessarily have to be determined at the stage of trial when the evidence is led.

10. At the same time, the the gravity of the over all offence cannot be used to attribute the entire alleged defalcation of Rs. 66 crores to every accused irrespective his individual role. For deciding the question of bail, the Court must distinguish between those entrusted with the management of the society and those arraigned as borrowers or beneficiaries of the particular loan transaction. The record suggests that the applicant was neither a member of the managing committee nor an employee responsible for the custody and management of the deposits of the society. On the contrary, this is an admitted position which cannot be contravened. The transaction directly attributed to the present applicant is quantified at Rs.50 lakhs although the prosecution seeks to connect the present applicant with the aggregate loan amount of Rs.13 crores sanctioned in the name of other eight borrowers. The prosecution case against him rests principally upon the loan documents, mortgage deed, bank entries and the forensic audit report. It is a matter of record that all these documents have already

been collected by the prosecution and they form part of the charge-sheet.

11. The observations relied upon by the learned APP in the forensic audit report undoubtedly furnish material for the prosecution to proceed against the present applicant. They cannot however be treated at this stage as conclusive proof that the applicant was a party to the entire conspiracy. These allegations of the prosecution will have to be proved by leading appropriate evidence before the trial court. Whether the eight borrowers were merely named, whether the aggregate amount was in fact credited for the exclusive benefit of the present applicant, and whether he had the requisite dishonest intention from the inception are matters that require strict proof. No further custodial interrogation is now sought, and no recovery dependent upon the applicant's continued detention has been demonstrated.

12. The principle and law pertaining to the parity does not mean that the bail granted to one accused must mechanically result in the bail to every other accused. It is the duty of the court to assess and compare their respective roles, the nature of the material against each of the accused, the period of custody undergone and the circumstances in which the bail was granted to those accused persons. However, once an accused demonstrates a substantially similar role and comparable circumstances, parity becomes an important facet of

consistency in judicial decision-making. A different result must then rest upon an intelligible and material distinction, which cannot be founded merely upon a general reference to the magnitude of the offence. In the present case, the forensic audit report relied upon by the prosecution was already part of the investigation when the other accused persons were released on bail. The alleged diversion of the loan proceeds and the irregularities in the sanctioning of the loan were, therefore, not subsequent discoveries unavailable to the courts which granted bail to those accused persons. The prosecution has not pointed any additional act exclusively attributable to the present applicant which would place him in a substantially more culpable position than the borrowers and beneficiary already enlarged on bail. The learned APP's argument that the present applicant had proximity to the Chairman may be a relevant circumstance for trial. However, in the absence of further material showing his participation in the management of the society, his dominance over the affairs of the society, or his control over the entire funds alleged to have been defalcated, the said circumstance is not sufficient to deny him the benefit of parity indefinitely.

13. At present, it is a matter of record that the investigation is complete, charge-sheet is already filed and the approximately, 33 witnesses which have been cited by the prosecution as witnesses and

the trial, till date, has not made any material progress. The applicant has been in custody since 27.01.2025 and thus, he has already undergone substantial pre-trial incarceration.

14. The learned Advocate for the applicant submits that, apart from the present offence, there are two criminal antecedents against the applicant. A perusal of the same reveals that one relates to bodily injury and is unconnected with the nature of the offence alleged in the present case. As regards FIR No. 403/23, the allegations pertain to offences punishable under Sections 420, 464, 465, 467, 468, 471 and 511 of the IPC. The applicant yet to be released on bail in the said offence. Thus, pendency of a similar offence will not deprive the present applicant of the parity that has been demonstrated by him with the other released accused persons. His bail application in the said case will be decided on its own merits.

15. Having regard to the limited and identifiable role attributed to the present applicant, the completion of the investigation and filing of the charge-sheet, the documentary nature of the evidence, and the period of custody undergone by the present applicant, more importantly, considering that the role of the applicant cannot be distinguished, on the basis of the material available on record, from that of the accused who have previously been released on bail, I am of the view that the applicant can be released on bail by imposing certain

conditions. Hence, the following order:

O R D E R

(i) The Bail Application No. 1493 is allowed.

(ii) The applicant, Dashrath Vitthal Shitole Alias Bapu Shitole, shall each be released on bail in Crime No. 532 of 2024, registered with Parner Police Station, District Ahilyanagar, for offences punishable under Sections 409 and 420 read with Section 34 of the Indian Penal Code, and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, on executing a personal bond of Rs.50,000/- with one or two sureties in the like amount, to the satisfaction of the Special Court.

(iii) The Applicant shall attend every date of trial, unless exempted by the Special Court.

(iv) The Applicant shall furnish his current residential address and mobile number to the Investigating Officer and the Special Court.

(v) The Applicant shall promptly report any change in their residential address or mobile number to the Investigating Officer and the Special Court.

(vi) The Applicant shall not, directly or indirectly, contact, threaten or induce any prosecution witness.

(vii) The Applicant shall not tamper with the society's records or any other evidence.

(viii) The Applicant shall not leave India without the prior permission of the Special Court.

(ix) The Applicant shall surrender his passport, if any, to the Special Court.

16. Breach of any of the aforesaid conditions shall entitle the prosecution to seek cancellation of bail.

17. The observations made herein are strictly prima facie and confined to the consideration of the present bail application. The learned Trial Court shall not be influenced by any of the observations made in this order while conducting the trial, which shall proceed independently in accordance with law, on the basis of the evidence adduced before it.

(HITEN S. VENEGAVKAR, J.)

JPChavan