IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1971 OF 2025

AMOL SHANKAR DARANDALE
VERSUS
THE STATE OF MAHARASHTRA

***

Advocate for Applicant : Mr. S. S. Tope
APP for Respondents-State : Mr. G. O. Wattamwar
Advocate for Applicant (Cri.Appln.) : Mr. A. C. Sisodiya (Assist to PP)

***

WITH
CRIMINAL APPLICATION NO. 101 OF 2026
IN BA/1971/2025

***

CORAM : SACHIN S. DESHMUKH, J.
Date : 17th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 03.10.2024 bearing Crime No. 870 of 2024 registered with MIDC Waluj Police Station, Dist. Aurangabad for the offences punishable under Sections 318(4), 316(2), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter “BNS” for short) alongwith Sections 3 and 4 of the Maharashtra Protection of Interests of Depositors Act (hereinafter “MPID Act” for short).

2. The prosecution case is that the informant and the applicant were colleagues at a pharmaceutical company in Waluj. Their acquaintance began in May 2024. The applicant represented to the informant that he and his brother operated a share market firm under the name "A.S. Enterprises".

3. It is further case of the prosecution that the applicant claimed the firm generated significant returns and promised investors a fixed profit of 8% per month. Induced by these assurances, the informant was allured to invest funds periodically. Following the informant's lead, a total of 11 acquaintances invested an aggregate sum of Rs. 66,08,990/-. While some initial payments were made, by the applicant, subsequently became irregular in distributing returns. When confronted by the informant, the applicant provided evasive responses. Consequently, a complaint was lodged, leading to the registration of an offence against the applicant and his brother and the charge-sheet came to be filed to that effect.

4. The learned counsel for applicant submits that the relationship between the parties began with a mutual agreement for investment in a share market firm. The fact that some amount

was initially repaid suggests a lack of intent to cheat at the outset. The entire case is based on the documentary evidence. It is further submitted that mere failure to deliver promised profits or irregularities in repayment constitutes a civil breach of contract rather than a criminal offence. The investigation is completed and charge-sheet is filed. As such, incarceration of the applicant is unjustified. Hence, prayed to allow the application.

5. Per contra, the learned APP vehemently opposed the application submitting that the offence is serious in nature and the accused have misappropriated huge amount of informant as well as other depositors. The applicant has actively participated in commission of crime. The fraud affects several families who have lost their hard-earned savings and in fact deceived by the applicant. Economic offences are considered grave offences against society at large. Hence, prayed for rejection of the application.

6. Having heard the submissions made by the respective sides and upon perusal of the record, including the chargesheet, it is revealed during the course of investigation that several persons have invested funds based on the assurances made by the applicant regarding his firm. A total amount of Rs. 2,17,58,490/- has been duped. Though there are statements suggesting that

certain amounts were repaid, that does not forsake the applicant of having intentionally duped the investors. There is no record indicating where those funds were actually invested or under what authority the applicant carried out those transactions.

7. Furthermore, there appears to be no due registration of the enterprise established by the applicant with the Securities and Exchange Board of India (SEBI). The applicant neither appears to hold a portfolio management authorisation nor possess a license to operate a brokerage firm. Moreover, the funds were never invested in demat accounts registered in the respective victims' names.

8. Under relevant provisions and SEBI guidelines, even duly registered entities like Portfolio Management Services (PMS) providers and brokers are prohibited from offering guaranteed returns to investors. Also, the money that was duped was, in certain instances, received directly into the applicant's personal bank account, leading to the strong inference that he utilized those funds for his own personal benefit. Thus, prima facie the intention to dupe was at inception.

9. The record prima facie establishes that the applicant

enticed investors by promising unrealistically high, and ultimately impossible, returns. He succeeded in defrauding several individuals without fulfilling the promised disbursements. Specifically, these actions were conducted under the guise of a fraudulent enterprise lacking any legal foundation. Hence, the very basis of his operation is ex facie illegal, rendering the contention that some amounts were partially repaid of no assistance.

10. To accept such a defence, at this stage, would set a perilous precedent, allowing individuals to establish fictitious entities, amass significant capital amounting to crores of rupees, repay negligible sums, and subsequently claim the defense of enterprise failure. Such defence of business failure is applicable to an enterprise established legally and operating within regulatory compliance. However, in the instant case, the foundation of the establishment of enterprise having no due registration and license, is demonstrably rooted in fraud. Therefore, a prima facie case is clearly established against the applicant for the offenses alleged.

11. Consequently, the victims various investors entrusted their hard-earned money and savings to the applicant based on the fiduciary relationship established during their interactions. The

failure to return the amounts invested / deposited and stopping the promised interest payments, the applicant committed a "misappropriation" of these funds. This conversion of entrusted money for unauthorized use directly constitutes an offense under Section 316 of the BNS.

12. The essential ingredients of Section 316 of the BNS offence are threefold:

i) There must be entrustment of property or dominion over property by the accused;

ii) The accused must be acting in the capacity of a banker, merchant, broker, attorney, or agent; and

iii) There must be dishonest misappropriation or conversion of such property for his own use, or disposal of it in violation of the law or the contract governing such entrustment.

13. Considering that the applicant acted in the capacity of an investment agent and facilitator, the alleged act squarely attracts Section 316 of the Bharatiya Nyaya Sanhita (BNS), 2023 which pertains to criminal breach of trust by a banker, merchant, or agent. This offense carries a potential punishment of

imprisonment for life. Given the gravity of the offense, the betrayal of financial trust, and the systematic nature of the fraud, a *prima facie* case is clearly established, and the applicant is not entitled to the discretionary relief of bail

14. The Hon’ble Apex Court, in the case of **Y.S. Jagan Mohan Reddy Vs. CBI [(2013) 7 SCC 439]**, has held that economic offences involving deep-rooted conspiracies and the massive diversion of public money stand on a different footing. Such offences seriously affect the national economy and erode the trust of the common man in financial systems.

15. In the light of the aforesaid facts and precedents, it is evident that the applicant was not a mere bystander but the primary orchestrator of a sophisticated and pre-planned financial fraud. By leveraging his personal influence as a colleague and utilizing the platform of a sham enterprise to lure unsuspecting individuals into a debt trap, specifically by inducing them to invest significant sums, including their hard-earned savings, under the false pretext of guaranteed high-yield returns, the applicant has demonstrated a clear and dishonest intent, at inception resulting into further breach of trust of the victims.

16. The magnitude of the siphoned funds, the lack of any legal authorization and pertinently, the diversion of deposited amount into personal accounts reflect a grave betrayal of financial trust. Thus, keeping in view the severity of the offense under Section 316 of the Bharatiya Nyaya Sanhita and the potential for life imprisonment, this Court finds no merit in the present application.

17. Hence, the bail application stands **rejected**.

18. Resultantly, pending criminal application also stands disposed of.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi