IN THE HIGH COURT OF JUDICATURE OF BOMBAY

BENCH AT AURANGABAD

BAIL APPLICATION NO.46 OF 2026

Dhananjay Kashinath Khillari … **APPLICANT**

VERSUS

The State of Maharashtra & anr. … **RESPONDENTS**

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Mr. A.S. Dhorde, Advocate for applicant
Mrs. P.V. Diggikar, A.P.P. for respondent – State

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CORAM : SACHIN S. DESHMUKH, J.

DATE : 17th FEBRUARY, 2026

PER COURT :

1. The applicant seeks release on regular bail in connection with Crime No.535/2025, registered with Loni Police Station, District Ahilyanagar for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Institutions) Act, 1999.

2. The prosecution case is that, the informant lodged F.I.R.

with an assertion that, he is engaged in construction business. He came to be acquainted with Sau. Arti Pawar of Pune through his business partner of the informant namely Girish Kakad. Thereafter, Arti Pawar acquainted the informant and Girish Kakad with the present applicant and thereafter there used to be business discussions amongst them. It is averred that, in June 2018, Arti Pawar demanded Rs.5 Lakhs from the informant and Girish Kakad for investment with 30% per month return on the investment. The present applicant also asked to invest in the trading business at Pune. As there became friendly relations among the informant and Girish Kakad on one hand and Arti Pawar and the present applicant on the other, and due to business discussions, believing on them, the informant and Girish Kakad deposited Rs.2,50,000/- and Rs.2,00,000/- from the account of his wife to the account of Arti Pawar on 8/6/2018 and Girish Kakad had deposited Rs.50,000/- in the account of Arti Pawar. Thereafter the present applicant had returned the deposit amount of Rs.5 Lakhs along with return of Rs.1,30,000/- in cash.

3. Thereafter, the applicant and Arti Pawar asked the informant to invest Rs.1,20,00,000/- in their digital coins with an assurance to pay 25% annual return. Therefore, the informant and

Girish Kakad paid Rs.1,20,00,000/- to the applicant and Arti Pawar, Lata Khillari, Alka Jaiswal in the Bank Accounts given by them from time to time. However, after expiry of the period, when the informant demanded the invested amount, they started avoiding the same and have not returned the amount invested by them.

4. Learned counsel for the applicant submits that, the applicant has been falsely implicated in the present case. There is inordinate delay in lodging the F.I.R. The investigation is complete and charge sheet is filed. There is no sufficient evidence to connect the applicant with the alleged offence. The applicant worked for a short period as employee and was not having authority to accept any deposit/ amount from the shareholders and all the decisions regarding floating of various schemes were with the Directors of the Company. There is no any specific overt act attributed to the present applicant. As such, prayed to allow the application.

5. Per contra, learned A.P.P. vehemently opposed the application, contending that, the offence is serious and huge amount has been involved.

6. Upon going through the FIR, it prima facie indicates the

informant specifically mentioned that the applicant under the false promise of giving high rate of interest induced the informant to invest their money with an assurance to pay 25% annual return and later on, when the informant demanded the invested amount, not returned the same.

7. Prima facie, it appears that the applicant is partner of the firm. As such, the applicant is responsible as contemplated in Section 3 of the MPID Act. The present applicant has proactively participated in the commission of offence, while siphoning the hard-earned amounts deposited by the complainant.

8. The essential ingredients of Section 409 of the IPC 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.

9. The record prima facie indicates that the complainant

entrusted his hard-earned money to the applicant and his associates through the Bank. This entrustment was made based on specific representations, resulting in a relationship that extended beyond a mere commercial contract. The informant placed his money in the custody of the applicant in a fiduciary capacity; consequently, the applicant was under a legal obligation to ensure the safety of the funds and to provide the promised returns on such investments. Thus, the evidence unequivocally satisfies the requirements for the offence of criminal breach of trust.

10. 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.

11. The Hon'ble Apex Court in the case of **Tarun Kumar Vs. Assistant Director, Directorate of Enforcement [(2024)13 SCC 788]**, held as under :-

> "22. Lastly, it may be noted that as held in catena of decisions, the economic offences constitute 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 affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation8, Nimmagadda Prasad vs. Central Bureau of Investigation9, Gautam Kundu vs. Directorate of Enforcement (supra), State of Bihar and Another vs. Amit Kumar alias Bachcha Rai10. This court taking a serious note with regard to the economic offences had observed as back as in 1987 in case of State of Gujarat vs. Mohanlal Jitamalji Porwal and Another11 as under:-

> "5… The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest…"

23. With the advancement of technology and Artificial Intelligence, the economic offences like money laundering have become a real threat to the functioning of the financial system of the country and have become a great challenge for the investigating agencies to detect and comprehend the intricate nature of transactions, as also the role of the persons involved therein. Lot of minute exercise is expected to be

> undertaken by the Investigating Agency to see that no innocent person is wrongly booked and that no culprit escapes from the clutches of the law. When the detention of the accused is continued by the Court, the courts are also expected to conclude the trials within a reasonable time, further ensuring the right of speedy trial guaranteed by Article 21 of the Constitution."

12. In view of the aforesaid circumstances and considering the material on record, the evidence prima facie establishes the entrustment of money, its dishonest misappropriation, and fraudulent intention on the part of the applicant at inception. Therefore, I am of the considered opinion that the prosecution has made out a strong prima facie case for the commission of an offence under Section 409 of the Indian Penal Code which is punishable for 10 years or life, along with the fine.

13. In view of the aforesaid discussion, no case is made out to grant bail to the applicant.

14. Accordingly, the bail application stands **rejected**.

(SACHIN S. DESHMUKH, J.)

fmp/-