

Navnath Waghmare

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1550 OF 2025

Kakasaheb Bhausahab Khade ...Applicant
V/s.
State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.2423 of 2025
IN
BAIL APPLICATION NO.1550 OF 2025

Sanjit Kumar Paul s/o Madan Paul ...Applicant
V/s.
State of Maharashtra ...Respondent

Mr.Mithilesh Mishra with Mr.Rushan Balsara for the Applicant in
BA No.1550 of 2025.

Mr.Mangesh Deshmukh for the Applicant in IA No.2423 of 2025.

Mrs.Sangeeta Shinde, APP for the State – Respondent.

Mr.Sanjay Patil, API attached to EOW-1, Navi Mumbai is present
in Court.

CORAM : R.M. JOSHI, J.
DATE : 16TH APRIL, 2026.

P.C. :-

1. Applicant seeks bail in connection with CR. No. 201 of
2023 registered with CBD Belapur Police Station for the offences
punishable under Sections 406, 409, 420 read with 34 of the

Indian Penal Code (for short '**I.P.C.**').

2. In short, it is the case of the prosecution that applicant and co-accused in the name and style "Sky Garuda Developers" proposed sale of plots of land by converting agricultural land into non-agricultural. It is alleged that they represented to the prospective purchasers about the lands being free from encumbrances and thus convinced them to purchase the flats from informant and other proposed persons. Though the consideration was received, but since the accused person failed to transfer the land in favour of the concerned, proposed purchasers present offence came to be registered against them, in connection with this crime applicant was arrested on 30.07.2024. After conclusion of the investigation, chargesheet is filed.

3. Learned counsel for the applicant submits that though the provisions of Maharashtra Protection of Interest of Depositors (In short Financial Establishments) Act, 1999 (for short "**MPID Act**") are sought to be applied to the present case, it is his contention that the applicant is not financial establishment as

defined in Section 2(d) of the Act nor the amounts allegedly received from the informant and others is a deposit as contemplated by Section 2(c) of the M.P.I.D. Act, and therefore, the provisions would not apply to the present case. It is his submission that on the face of it the transaction is purely civil in nature. Without prejudice to these submissions, it is contended that since the prospective purchaser failed to pay the entire amount of consideration, the said first project could not go ahead which has resulted into causing of delay in subsequent projects. It is his submission that in such circumstances no *mala-fides* could be attributed to the applicant. According to him, the offences charged against the applicant are punishable for imprisonment for 07 years. In view of the fact that the applicant is in jail since from 30.07.2024, he is entitled for bail.

4. Learned counsel for the Intervenor and learned APP opposed the application for grant of bail. It is their submission that the material documents on record indicate that the applicant and co-accused have persuaded informant and others to invest huge amounts with them. However, subsequently, they

failed to fulfill the promise and hence, the offence of cheating is made out. Learned counsel for the Intervenor submits that the memorandum of understanding between the parties indicate that in case of cancellation of the agreements, the accused persons agreed to refund the amounts with interest at the rate of 21% per annum and which clearly shows that this is the 'deposit' within the meaning of Section 2(c) of the M.P.I.D. Act. To support this submission he placed reliance on order of the Division Bench of this Court dated 06.03.2020 in Criminal Application bearing No. 720 of 2018 in the case of ***Manohar Bhimraoji Mahalle and Others Versus State of Maharashtra and Others***. It is submitted that considering the act of cheating on the part of the accused and the amount involved in the crime, application be rejected.

5. *Prima-facie*, perusal of the record indicates that there is no allegation against the applicant and co-accused that they created any bogus record and on the basis of which the informant and others were persuaded to purchase the property. The documents executed between the parties clearly indicate

that this is a case of sale and purchase of the immovable properties for agreed consideration. In such circumstances *prima-facie* question arises as to whether the provisions of M.P.I.D. Act could be invoked in the instant case. Perusal of the documentary evidence *prima-facie* suggest that this is a case of purchase of the property of payment of consideration / earnest money. No doubt memorandum of understanding is executed indicating return of the earnest money with interest in case the agreement is canceled, however, the same cannot be construed as deposit under Section 2(d) of the M.P.I.D. Act.

6. It would be relevant to take note of the said definition which includes in respect of money to be returned after specified period or otherwise. Thus, in order to attract the said provision, the amounts received by the accused must be 'deposit', to be returned after the specified period or otherwise. Merely because memorandum of understanding is executed indicating that cancellation of the agreement to sale the earnest money would be returned with interest at the rate of 21% per annum, the same cannot be construed as deposit under the Act. This court

therefore, *prima-facie* finds substance in the contention of the learned counsel for the applicant that the provisions of M.P.I.D. act may not be attracted to the present case.

7. Apart from this, it is informed to this Court that the informant and others have initiated the proceedings against the applicant for recovery of money. Needless to say that the applicant cannot be kept in jail by way of pre-trial sentence. The offence alleged against the applicant is punishable with imprisonment for the term of 07 years and since the applicant is in jail from 30.07.2024, he deserves bail.

8. Hence the following order :-

ORDER:

- a) The Applicant be enlarged on bail in connection with Crime No 201 of 2023, registered with CBD Belapur Police Station on furnishing PR bond of Rs. 15,000/- with one surety or two sureties in the like amount to the satisfaction of the Trial Court.
- b) The Applicant to attend the Trial Court on each dates

of hearing unless exempted by the Trial Court.

c) The Applicant not to contact any witness directly or indirectly and not to interfere into the evidence of the prosecution in any manner whatsoever.

d) In view of the above, Bail Application 1550 of 2025 stands allowed and pending applications, if any, stands disposed of.

9. It is clarified that above all observations are *prima-facie* in nature and would not bind Trial Court / parties during trial.

(R.M. JOSHI, J.)