



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [BA] NO. 1340 OF 2025.

Vijay Ramdas Gurnule.

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.D. Bhate, Advocate for the Applicant.
Shri A. Mate, A.P.P. for the Non-applicant.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 04, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.251/2020 registered with Ranapratap Police Station, Nagpur for the offence punishable under Sections 420, 406, 409, 120(B) read with Section 34 of the Indian Penal Code, Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (MPID), read with Section 45[5] of the Reserve Bank of India Act.

3. The report is lodged by one Ganesh Chafle alleging that on 15.04.2020 he paid visit to a Company, where he was explained about the business of the company by the agents. In 2020 his wife

sold plot, and the agents of the company paid visit to their home and called them to invest the amount in the scheme namely 'Real Trade'. They introduced present applicant as Managing Director of the company, who assured that their investment would be safe and profitable and gained their confidence. On 09.07.2020 the complainant invested Rs.93,000/- in the company, though the company assured weekly returns, the same were not made over to the complainant for 9 weeks, and he was further induced to invest Rs.11,35,000/-. It is alleged that the complainant received regular returns from July to September, 2020, however, since the returns stopped, the crime came to be registered.

4. The learned Counsel for the applicant raises a ground of delay in trial. He submits that speedy trial is a fundamental right of applicant guaranteed under Article 21 of the Constitution of India. He submits that denial of said right would entail him to get bail. So far as the present case is concerned, the first information report was lodged on 13.11.2020, applicant was arrested on 19.11.2020, charge sheet was filed on 11.12.2021 and charges are framed on 08.06.2023. It is the submission that prosecution has come up with a list of 270 witnesses and from the status report called from the trial Court till today only 9 witnesses have been examined, therefore, in near future there is least possibility of concluding the trial, therefore,

prayed to grant bail. He further submits that there are total 16 accused persons, out of which 15 are released on bail. He has placed on record copies of their bail orders.

5. The learned A.P.P. opposes the application by submitting that the trial has commenced and at present 9 witnesses have been examined, and once the trial has commenced, the ground of delay in trial cannot be considered. It is submitted that considering the seriousness of the offence and the applicant being involved in misappropriation of more than Rs.55 Crores, he does not deserve to be released on bail.

6. I have considered the rival submissions. The Hon'ble Supreme Court in the case of **Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813**; has in para no.17 held as under:

"17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

Further in case of **Sheikh Javed Iqbal VS State of Uttar Pradesh, (2024) 8 SCC 293**; it has been held in para no.32, by the Supreme

Court as under :

“32. This Court has, time and again, emphasized that right to life and personal liberty enshrined Under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an Accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the Accused-undertrial Under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the Rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant ball. But It would be very wrong to say that under a particular statute, ball cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

Even in the recent judgment in case of **Anoop Singh .vrs. U.T. of J and K (SLP (Cri) No.1398/2026)** vide order dated 03.02.2026 has in paragraph no.8 held as under :

“8. The report is extremely disturbing. The report highlights the sorry state of affairs at the end of the prosecuting agency. We are at pains to note that in last 7 years, the prosecution has been able to examine only 7 witnesses. Prosecution still intends to examine 17 more witnesses. We wonder who are these 17 witnesses who are yet to be examined and if not examined, what would be the adverse effect on the case of the prosecution. However, the most unfortunate

part of the report of the Trial Court is that past 82 hearings, not a single witness has been examined.”

7. In so far as the present case is concerned, as can be gathered from the facts, that the first information report was registered on 13.11.2020, applicant came to be arrested on 19.11.2020 and is in jail since then i.e. for a period of 5 years and 3 months he is behind bars. Charges are framed on 08.06.2023. I have considered the status report received by this Court, which shows that till date only 9 witnesses have been examined. If this speed is considered, at least for 10 years the trial will not conclude, since the list of witness is containing 270 names. In such circumstances, the applicant cannot be kept behind bars for indefinite period. Thus, considering the ratio laid down by the Hon'ble Supreme Court in catena of cases, and more particularly in the cases referred supra, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Vijay Ramdas Gurnule be released on regular bail in connection with

Crime No.251/2020 registered with Ranapratap Police Station, Nagpur for the offence punishable under Sections 420, 406, 409, 120(B) read with Section 34 of the Indian Penal Code, Section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act (MPID) read with Section 45[5] of the Reserve Bank of India Act, on his furnishing P.R. Bond of Rs.50,000/-, with one surety in the like amount.

- (iii) The accused shall not enter within the territorial jurisdiction where the informant is residing, till the completion of the trial.
- (iv) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change the place of residence without prior intimation to the Investigating Agency.
- (vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial on one date, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.
- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get itself influenced by said observations,

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during the course of trial.

- (viii) Misc. Applications, if any, are also disposed of.

JUDGE.