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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1175 OF 2025

Milind Satish Sawant,
Age 40 years, Occupation Business
R/o. Room No.204, 2nd Floor,
Goodwill Building, Sector 12,
Koparkhairane, Navi Mumbai 400 709
(Presently in custody and lodged and
detained in Alibaug District Prison,
Raigad) ... **Applicant**

V/s.

The State of Maharashtra,
At the instance of
Bhandup Police Station ... **Respondent**

Mr. Nitin Pradhan a/w Ms. Shubhada Khot i/b Ms. Ameeta Kuttikrishnan & Ms. Shambhavi Desai & Ms. Gayatri Pore for the Applicant.

Ms. Shilpa G. Talhar, APP for the State – respondent.

Mr. Ramesh Andher, API, Bhandup Police Station, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 3, 2025

PRONOUNCED ON : SEPTEMBER 4, 2025

JUDGMENT:

1. By the present bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the applicant is seeking the relief of regular bail in

connection with Crime Register No. 52 of 2022, registered at Bhandup Police Station. The said crime has been registered for offences punishable under Sections 406, 409, 420 read with Sections 34 and 120-B of the Indian Penal Code (for short "IPC"), as well as under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short "MPID Act").

2. The prosecution case, in brief, is that the original complainant, a resident of Badlapur and working with the Brihanmumbai Municipal Corporation, was introduced by his friend, one Balu Tarse, to an investment scheme of an establishment named Mars Finance, which was stated to be operating from B-204, Eastern Business District, Neptune Magnet Mall, LBS Road, Ganeshnagar, Bhandup (West), Mumbai. The said friend informed the complainant that he himself had invested money in Mars Finance and was receiving regular returns therefrom. Encouraged by this, the complainant was persuaded to consider investing in the scheme of Mars Finance.

3. Acting on such persuasion, the complainant visited the office of Mars Finmart on 10th November 2020. At the said office, he was initially attended by one Ms. Anjali, who introduced him to the accused persons, namely, Mr. Milind Sawant and Mr. Rupesh Shah. The accused persons explained to the complainant various investment schemes and the manner in which returns would be generated. They further represented that they were engaged in stock and mutual fund trading business and assured the complainant of a monthly return of 5% on the amount invested.

They also informed him that if he did not have sufficient funds for investment, they could arrange for a bank loan in his name, for which he was only required to submit his documents. The accused assured the complainant that on such a loan, they would provide him monthly profit of 5% of the loan amount, from which the loan installment would be deducted and the balance paid to him. For instance, if a loan of Rs.20,00,000/- was obtained, the complainant would receive Rs.1,00,000/- per month, out of which Rs.50,000/- would be adjusted towards the loan installment and the remaining Rs.50,000/- would be paid to him. Being impressed with such representation and assurances, the complainant agreed to participate in the scheme and made further enquiries regarding repayment mechanism of the loan.

4. The accused persons informed him that the installment amount would be deducted from the salary account maintained by them and thereafter collected necessary documents from the complainant. However, they did not disclose to him the exact bank or lending institutions from which the loan would be procured. Thereafter, in due course, a sum of Rs.38,19,927/- came to be credited into the Bank of Maharashtra account of the complainant. The said amount was disbursed by five different banks as loans, the details of which are as under:

(a) HDFC Bank, Kanjurmarg Branch – Rs.8,93,884/-;

(b) IDFC Bank, Wagle Estate, Thane Branch – Rs.8,83,448/-;

(c) IndusInd Bank, Andheri Branch – Rs.7,79,012/-;

(d) ICICI Bank, Andheri Branch – Rs.4,93,038/-; and

(e) HDB Bank, Andheri Branch – Rs.7,70,545/-.

5. It is alleged that the signatures of the complainant were obtained by accused Rupesh Shah in his office. Out of the total loan proceeds of Rs.38,19,927/-, an amount of Rs.34,30,000/- was transferred to the account of Mars Finance belonging to accused Milind Sawant on 31st December 2020 and 1st January 2021. Within a week thereafter, both accused Milind Sawant and Rupesh Shah handed over to the complainant an agreement along with a cheque of Rs.34,00,000/-. The said agreement recorded that since the complainant had deposited Rs.34,00,000/-, the accused would pay him Rs.1,70,000/- as monthly returns for a period of five years. However, despite such assurance and execution of documents, the complainant was not paid any returns or benefits as promised.

6. The record further reveals that in April 2021, the complainant and his friend Balu Tarse were handed over an amount of Rs.50,000/- by Mars Finance. At that time, both the accused persons once again assured the complainant that they themselves would take responsibility for repaying the loan installments which had been taken in the complainant's name. Despite such assurances, no further returns were paid to the complainant as promised under the scheme.

7. Finding no returns forthcoming, the complainant personally visited the office of Mars Finance, only to discover that the said office premises were found locked and shut. It also came to light that another acquaintance of the complainant, namely, Laxman Gode, had also invested his money in the scheme floated by the accused persons. However, even he had not received any return on

the investment made by him.

8. The complainant has categorically stated that it was on the repeated representations and assurances of the accused persons that he parted with his money and invested in their scheme. He was also given a receipt duly signed by accused Milind Sawant acknowledging the deposit of the invested amount. However, neither the promised monthly returns nor any part of the principal amount were repaid.

9. Thus, as per the complaint, the accused persons duped the complainant to the extent of Rs.33,80,000/- and further cheated his friends to the extent of approximately Rs.59,00,000/-. The modus adopted by the accused was to collect large sums of money from the complainant and other investors under the pretext of high returns and thereafter to default on their assurances. The accused persons thereafter closed down their office establishment and absconded in order to evade repayment of the invested amounts and returns.

10. In these circumstances, the complainant approached the police authorities, and accordingly, Crime Register No. 92 of 2022 came to be registered at Bhandup Police Station on 7th February 2022 against both the accused persons for the aforementioned offences.

11. Mr. Pradhan, learned Advocate appearing for the applicant, has invited my attention to the material placed on record and has advanced detailed submissions. He submitted that the Designated Court appointed under the provisions of the MPID Act, is a Court

constituted under Section 6 read with Section 13 of the said Act. According to him, such Designated Court has jurisdiction to try only the offences punishable under the provisions of the MPID Act. He submitted that the Designated Court is empowered to take cognizance of offences as contemplated by the explanation to Section 193 of the Cr.P.C., without the need for committal of the case by the Magistrate under Sections 208 or 209 of the Cr.P.C. However, relying on the provisions of the Prevention of Corruption Act, 1988 (for short "PC Act"), particularly Sections 3, 4 and 5 thereof, the learned Advocate submitted that unlike the PC Act, which specifically empowers Special Courts to try not only offences under the PC Act but also offences under the IPC, the MPID Act contains no pari materia provision. He submitted that this is a clear indicator that the Legislature did not intend to confer on the Designated Court the jurisdiction to try offences under general law like the IPC. It was further submitted that while enacting the MPID Act, the State Legislature has neither authorised the investigating agency to investigate offences under general law nor empowered the Designated Court to adjudicate upon such offences. He submitted that the offences under Sections 406 and 420 of the IPC are triable by the Magistrate of the First Class, and an appeal against any conviction in such offences lies before the Sessions Court. If the Designated Court is allowed to try such IPC offences, the accused would lose one valuable appellate forum, which according to him amounts to a violation of the fundamental rights guaranteed under Articles 21 and 14 of the Constitution of India.

12. The learned Advocate further submitted that in the present case, investigation is still incomplete. Nevertheless, the prosecution has insisted upon framing of charges before the Designated Court not only for offences under Section 3 of the MPID Act but also for offences under Sections 406, 409, 420, 34 and 120-B of the IPC. He further pointed out that the Finnmart Company is not a natural or biological person and, therefore, the offence under Section 120-B of the IPC is not at all attracted. On this basis, he submitted that the very foundation of the prosecution case is unsound, and consequently, the final report is vitiated.

13. He has also urged that the applicant has already repaid part of the money to certain investors. Out of several investors, the statements of eight investors have not been recorded under Section 161 of the Cr.P.C. Still, their written complaints have been relied upon. Further, with respect to ten other investors, no complaints are found to be part of the charge-sheet. According to him, this creates serious doubt on the manner in which the investigation has been conducted.

14. The learned Advocate then contended that the money allegedly invested by the investors cannot be construed as “deposit” within the meaning of Section 3 of the MPID Act. He placed reliance on the bail order passed in Crime No.123 of 2021, in which the applicant was released on bail. He submitted that since the allegations in that FIR are almost identical to the present FIR, the applicant deserves the benefit of parity and should be enlarged on bail on the same reasoning.

15. He further invited my attention to paragraph 9 of the judgment of the Supreme Court in *Arnesh Kumar vs. State of Bihar & Anr., AIR 2014 SC 2756*, to contend that the procedural safeguards contemplated therein have not been followed by the prosecution in the present case. He also relied upon paragraph 22 of the judgment of the Supreme Court in *Satender Kumar Antil vs. Central Bureau of Investigation & Anr., (2022) 10 SCC 51*, wherein it has been observed that the rate of conviction in criminal cases in India is abysmally low, and that such factor should not weigh adversely while deciding bail applications. According to him, bail considerations cannot be punitive in nature, and pre-trial incarceration cannot be treated as punishment. He pointed out that the applicant has been in custody since February 2024, the charge-sheet has already been filed, and investigation is complete. In such circumstances, the applicant deserves to be enlarged on bail pending trial.

16. Per contra, Mrs. Talhar, learned APP, strongly opposed the bail application and invited my attention to the material collected during investigation. She contended that once the material on record discloses commission of offences under both the Indian Penal Code as well as under the MPID Act, the Designated Court constituted under the MPID Act is competent to try such offences together. She submitted that Section 6 of the MPID Act specifically empowers the State Government to designate one or more Courts of Session as “Designated Courts” for the purposes of the said Act. The mere conferment of such designation does not strip the Court of its original character as a Court of Session constituted under the

Code of Criminal Procedure, 1973. In other words, even after being notified as an MPID Court, the said Court continues to enjoy all powers vested in a Court of Session under the Cr.P.C., including the power to try offences under the IPC.

17. On merits, she pointed out that the material on record prima facie demonstrates that the amounts invested by several persons in the account of Mars Finnmart were not utilised for the intended purpose, but were siphoned off by the applicant and transferred into his personal account. She contended that the very purpose of entrustment of such funds was that the applicant, holding himself out as a person of financial expertise, would invest the said amounts in the stock market and mutual funds. However, instead of honouring such trust, the applicant misappropriated the said amounts, which conduct clearly fulfills the ingredients of criminal breach of trust by a public servant or agent as contemplated under Section 409 of the IPC.

18. She further submitted that the promise of repayment at the rate of 5% to 10% per month was impossible from the very inception, which itself shows that the entire scheme was fraudulent in nature. The investigation so far reveals that the applicant, in connivance with the co-accused, has collected an amount of Rs.7,29,85,000/- from as many as 127 investors, and this figure is likely to rise as further investigation progresses. The material indicates that the applicant and others persuaded innocent investors to submit their documents, obtained bank loans in the names of such investors, and thereafter diverted the loan amounts to the entity controlled by the applicant and his

associates on the pretext of giving extraordinary returns.

19. She pointed out that, ultimately, the investors were left with heavy liabilities towards repayment of bank loans, whereas the applicant and his associates closed down their establishment and absconded, leaving no option for the investors but to approach the police authorities and lodge FIRs. She therefore urged that the modus operandi adopted by the applicant reflects a deliberate design to cheat a large number of investors, and the magnitude of the fraud committed by the applicant and others cannot be ignored at the stage of considering bail.

20. The learned APP also pointed out that the applicant is not a first-time offender. He has antecedents of committing similar offences. In particular, Crime Register No.123 of 2021 has been registered against the applicant, which involves cheating of 25 investors to the tune of Rs.82,70,000/-. In view of such antecedents, the learned APP submitted that there exists a reasonable apprehension of repetition of similar offences if the applicant is enlarged on bail. Considering the seriousness of the allegations, the magnitude of the fraud, and the antecedents of the applicant, she submitted that no case is made out for grant of bail, and the application deserves to be rejected.

21. I have considered the rival submissions advanced on behalf of the applicant by Mr. Pradhan, learned Advocate, and those urged by Mrs. Talhar, learned APP for the State. I have also perused the material placed on record, including the charge-sheet, statements of witnesses, and the documentary evidence.

22. The main argument of the learned Advocate for the applicant is that the Designated Court constituted under the MPID Act has jurisdiction only to try offences under the MPID Act, and not offences under the Indian Penal Code. To support this, reliance is placed on the scheme of the MPID Act, pointing out that unlike the Prevention of Corruption Act, the MPID Act does not contain provisions like Sections 3, 4 and 5 of the PC Act, which expressly give wider powers to Special Courts. The learned Advocate submits that if IPC offences are also tried by the MPID Court, the accused will lose one level of appeal, because offences like Sections 406 and 420 IPC are ordinarily triable by the Magistrate of First Class, and in such cases the first appellate remedy would lie before the Sessions Court. This alleged deprivation of one forum of appeal, according to the applicant, violates Articles 14 and 21 of the Constitution.

23. At first glance, the argument put forward by the applicant may appear attractive. However, when examined more carefully, it does not withstand legal scrutiny. Section 6 of the MPID Act expressly empowers the State Government to designate one or more Courts of Session as Designated Courts for trying offences under the MPID Act. The legal position is well settled that such designation does not change the essential nature or character of the Court of Session.

24. In other words, the Court of Session, once designated under the MPID Act, does not lose its original identity as a Court of Session under the Cr.P.C. It continues to remain a Sessions Court, possessing all powers vested in it by the Code, and, in addition, it

also acquires the special jurisdiction conferred upon it by the MPID Act.

25. If the argument of the applicant were accepted, it would mean that by virtue of designation, the Sessions Court suddenly becomes a forum with narrower powers than what it otherwise had under the Cr.P.C. Such a conclusion would be illogical and contrary to the settled principle that conferment of special jurisdiction enlarges the competence of a Court, but never curtails its original powers unless there is a clear legislative intent to that effect.

26. It is also a well-recognised canon of statutory interpretation that jurisdiction once vested in a Court is not taken away except by express provision or necessary implication. The MPID Act contains no such provision which curtails the ordinary powers of a Sessions Court. On the contrary, the legislative intent is to confer an additional jurisdiction on the Sessions Court to ensure effective and speedy trial of offences relating to fraudulent financial establishments.

27. Therefore, the correct interpretation is that the Sessions Court, even after being designated as an MPID Court, continues to exercise its full powers under the Cr.P.C. as a Sessions Court, while also exercising the additional jurisdiction conferred by the MPID Act. The designation, thus, is an enlargement of jurisdiction, not a restriction.

28. If we accept the interpretation suggested by the applicant, it would result in an impractical situation. In cases where the same

fraudulent transaction gives rise to both MPID Act offences and IPC offences, two different trials would have to be conducted, one before the Magistrate for IPC offences and another before the Designated Court for MPID offences. This would cause unnecessary multiplicity of proceedings and may even result in conflicting findings by different Courts on the same set of facts. Clearly, the Legislature, when it enacted the MPID Act, never intended to create such confusion or duplication.

29. The purpose of the MPID Act is very clear. It is to provide for speedy trial of offences by fraudulent financial establishments and to ensure effective recovery of money so as to protect the small investors. If offences under the IPC that are part of the same fraudulent activity are sent to a different Court, this very purpose will be frustrated. The evidence would have to be duplicated, witnesses examined twice, and two judgments delivered on the same matter. Such an approach would waste judicial time and resources and defeat the legislative intent of creating a special forum to deal with these cases efficiently.

30. Therefore, it is evident that the Designated Court, being in essence a Court of Session, retains full competence to try IPC offences which are closely linked to the offences under the MPID Act. In the present case, the allegations of cheating and breach of trust not only fall under the provisions of the MPID Act but also clearly attract Sections 406, 409 and 420 of the IPC. These offences are so interwoven that separating them would prejudice the prosecution and also undermine the cause of justice. For this reason, the contention that the Designated Court lacks jurisdiction

to try IPC offences cannot be accepted and is rejected.

31. The reliance placed by the learned counsel on the distinction between the PC Act and the MPID Act is also misplaced. It is true that the PC Act expressly contains provisions empowering the Special Courts to try not only offences under that Act but also connected IPC offences. However, the absence of such an express provision in the MPID Act does not mean that the jurisdiction of the Designated Court must be narrowly construed. The purpose of the MPID Act is equally clear, to create a special machinery to protect depositors and to provide for quick adjudication of fraudulent financial transactions. A restrictive interpretation would frustrate this object.

32. When Section 6 is read along with Section 13 of the MPID Act, it becomes clear that the Designated Court continues to be a Sessions Court under the Cr.P.C. while also exercising the additional powers under the MPID Act. A Sessions Court under the Cr.P.C. is already competent to try serious IPC offences. Therefore, once a Sessions Court is designated as an MPID Court, its competence to try IPC offences connected with the same fraudulent transaction cannot be curtailed merely because the MPID Act does not use the same wording as the PC Act. The absence of a verbatim provision is not exclusion, and the general powers of the Sessions Court remain intact.

33. As to the contention that the accused loses one appellate forum, this Court finds it without merit. The right of appeal is not a fundamental right; it is purely a statutory right created by the

Legislature. The Legislature, depending on the nature of the subject, may consciously provide for a higher forum of appeal in certain classes of cases. If the appellate remedy lies directly to a higher Court, that does not amount to violation of Articles 14 or 21. On the contrary, the scheme of the MPID Act is designed to ensure speedy trial and finality in such matters, and the appellate forum has been consciously structured to balance the rights of depositors and the accused alike.

34. Thus, the submission that the jurisdiction of the Designated Court under the MPID Act is narrower than that of a Special Court under the PC Act is misconceived and stands rejected.

35. The next contention raised on behalf of the applicant is that the offence under Section 120-B of the IPC (criminal conspiracy) cannot apply, since the company Finnmart is not a living or biological person. This argument, however, does not hold good in its absolute sense. The material placed before the Court does not suggest that the alleged conspiracy was only between the complainant and the company Finnmart. On the contrary, the case of the prosecution is that the applicant, along with other co-accused persons, in connivance, hatched a conspiracy to cheat innocent investors by inducing them to part with their hard-earned money on the false promise of extraordinary returns. The law under Section 120-B IPC clearly recognises that conspiracy is essentially an agreement between two or more persons to do an unlawful act. When natural persons are involved in designing and executing such a fraudulent scheme, the non-biological character of a company does not in any way take away the offence of

conspiracy. The individuals who control, plan and execute the scheme can always be held liable for entering into a conspiracy.

36. The further submission that the applicant has already repaid part of the amount to some of the investors also cannot be treated as a ground to dilute the seriousness of the allegations. Repayment, whether full or partial, does not undo the initial wrongful act of inducement, deception and misappropriation, if the basic ingredients of the offence are otherwise satisfied. At best, such repayment may have some bearing at a later stage of trial, either for determining the extent of liability or for mitigation of sentence if conviction results. At the present stage, however, the fact remains that the prosecution has brought on record material to show that the applicant, along with co-accused, siphoned off huge amounts running into several crores of rupees from about 127 investors. The investigation further discloses a well-thought-out modus operandi of luring investors to borrow money from banks and hand over those amounts on the false promise of fixed monthly returns of 5% to 10%. Such conduct shows a systematic design to defraud, which cannot be brushed aside merely because a fraction of the money has been repaid.

37. The applicant has also argued that the amounts invested by the complainant and other investors do not come within the meaning of “deposit” under Section 3 of the MPID Act. In my considered view, this argument cannot be decided at the bail stage. It is essentially a matter of defence, which can only be properly examined during the course of trial when both sides lead evidence.

38. On a plain reading of Section 3 of the MPID Act, it is clear that any money received by a financial establishment under any scheme or arrangement, which promises return in cash or in kind, qualifies as a "deposit." The section itself carves out specific exceptions, such as amounts received from banks, financial institutions, or as share capital. Apart from these exceptions, all other monies received with an assurance of returns fall within the mischief of the section. In the present case, the prosecution material shows that several investors were induced to part with their money under an assurance of extraordinary monthly returns ranging between 5% and 10%. Such promises, made at the time of collecting the money, bring the transaction squarely within the ambit of "deposit" as understood under the MPID Act.

39. It is a well-settled principle that while considering a bail application, the Court is not expected to conduct a roving enquiry into the evidence but only to see whether a prima facie case exists. In the present matter, the statements of investors, the receipts issued to them, and the agreements executed clearly indicate that the investors were lured into handing over their money on the assurance of fixed profits. The nature of the transaction was not that of a genuine commercial partnership or a business venture where profits and risks are shared, but rather a unilateral promise of fixed returns irrespective of any actual performance. Such arrangements are exactly what the Legislature intended to include within the definition of "deposit" under the MPID Act, in order to prevent exploitation of small and unsuspecting depositors.

40. Therefore, at this preliminary stage, the Court is unable to accept the applicant's contention that the amounts in question do not constitute a "deposit." This argument can no doubt be raised at the time of trial, when evidence is recorded and the real nature of the transaction is closely examined. However, for the limited purpose of deciding the bail application, the prosecution has been able to prima facie demonstrate that the money collected falls within the definition of "deposit" under Section 3 of the MPID Act.

41. Section 409 IPC specifically deals with criminal breach of trust when committed by persons who occupy positions of trust such as a public servant, banker, merchant, factor, broker, attorney or agent. The essential ingredients of this offence are threefold: (i) there must be entrustment of property or dominion over property to 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 law or the contract governing such entrustment.

42. Coming to the facts of the present case, the record clearly shows that the complainant and more than a hundred other investors entrusted their hard-earned money to the applicant and his associates through the scheme of Mars Finnmart. This entrustment was made on a specific representation that the accused would invest these funds in the stock market and mutual funds, and in return pay a fixed monthly profit of 5% to 10%. Such an arrangement created a relationship beyond a simple commercial contract. The investors placed their money in the

custody of the applicant in a fiduciary capacity, treating him as their agent who was duty bound to invest and return profits as promised.

43. The investigation further discloses that instead of using the entrusted money for genuine investments, the applicant siphoned large sums into his personal account. This diversion of funds for personal use amounts to clear misappropriation and dishonest conversion, thereby satisfying the second requirement of Section 409 IPC.

44. The defence argument that this is merely a civil breach of contract or a failed commercial transaction is not convincing at this stage. The promise of abnormally high returns of 5% to 10% per month itself suggests that the scheme was fraudulent from its inception. Once it is prima facie shown that money was entrusted for a specific purpose and that the same has been dishonestly diverted or misappropriated, the matter ceases to be a mere civil dispute. It then squarely falls within the definition of criminal breach of trust as contemplated under Section 409 IPC.

45. It is also important to note that Section 409 IPC prescribes a harsher punishment, imprisonment for life, or up to ten years, along with fine, because such offences are committed by persons holding fiduciary positions of trust. In the present case, the applicant, by projecting himself as a financial advisor and promising fixed returns, assumed the role of an agent and fiduciary. Once the investors entrusted their funds to him, he was under a legal duty to apply the money only for the stated purpose.

His failure to do so and the act of siphoning off funds into his personal account bring the case squarely within the ambit of Section 409 IPC.

46. In view of this, and considering the material on record which shows entrustment of money, its dishonest misappropriation, and fraudulent intention, this Court finds that the prosecution has made out a strong prima facie case for application of Section 409 IPC.

47. The reliance placed by the applicant on the bail order passed in Crime No. 123 of 2021 on the ground of parity also does not carry weight. The principle of parity cannot be applied in a mechanical fashion. The antecedents of the applicant themselves reveal that he is a repeat offender. Moreover, the present case involves more than 127 investors and an amount exceeding ₹7 crores, whereas the earlier case involved only 25 investors and about ₹82.70 lakhs. The scale and gravity of the present offence is far more severe, and therefore, the applicant cannot claim bail merely on the basis of parity.

48. The reliance placed on *Arnesh Kumar v. State of Bihar* and *Satender Kumar Antil v. CBI* is also misplaced in the facts of this case. The directions in *Arnesh Kumar* were intended to prevent unnecessary arrests in minor offences punishable with less than seven years' imprisonment. Here, the offences are economic in nature and of grave seriousness, punishable under Sections 409 and 420 IPC with stringent sentences. The Supreme Court has repeatedly held that economic offences involving large-scale

cheating and breach of trust stand on a different footing because they affect the financial system and erode public confidence. Similarly, while *Satender Kumar Antil* does express concern about low conviction rates, it also clarifies that the gravity and seriousness of the offence must weigh heavily in the Court's discretion while considering bail.

49. It is no doubt correct that under Article 21 of the Constitution, personal liberty is a fundamental right, and pre-trial detention cannot be treated as punishment. The principle that "bail is the rule and jail the exception" has been reiterated by the Supreme Court in several decisions. However, these very decisions also caution that such liberty is not absolute. The Court must balance individual liberty with other equally important considerations, namely, the rights of victims, the interests of society at large, and the need to ensure a fair and proper trial.

50. In the present matter, the allegations are not trivial or isolated. On the contrary, the prosecution material prima facie demonstrates a systematic and large-scale fraud where more than a hundred investors have been cheated and an amount of over ₹7 crores siphoned off. The modus operandi adopted by the applicant and his associates was to lure investors with promises of extraordinary monthly returns, encourage them even to borrow from banks, and thereafter misappropriate the amounts. The magnitude and seriousness of the fraud cannot be overlooked.

51. It is also significant that the applicant has antecedents of committing similar offences, as reflected from Crime No. 123 of

2021 involving another group of investors. This shows a continuing pattern of behaviour rather than a one-time lapse. The possibility of repetition of similar offences, if the applicant is released on bail, therefore cannot be ruled out and is a strong factor against granting bail.

52. The Supreme Court has consistently held that economic offences involving deep-rooted conspiracies and massive diversion of public money stand on a different footing, since they seriously affect the economy of the nation and corrode the trust of the common man in financial systems. (*Nimmagadda Prasad v. CBI*, (2013) 7 SCC 466; *Y.S. Jagan Mohan Reddy v. CBI*, (2013) 7 SCC 439). While liberty under Article 21 is sacrosanct, it must give way to the larger public interest when the allegations disclose organised financial frauds of such scale.

53. In light of the seriousness of the allegations, the scale of the fraud, and the antecedents of the applicant, this Court is of the considered opinion that releasing the applicant on bail at this stage would not be justified. Grant of bail in such circumstances would not only undermine public confidence in the justice system but may also encourage repetition of similar fraudulent acts.

54. Considering all these aspects, the gravity of allegations, the magnitude of fraud, the manner in which innocent investors have been duped, and the antecedents of the applicant, this Court finds that no case is made out for grant of bail. The submissions of the applicant, though carefully considered, do not persuade this Court to exercise its discretion under Section 439 Cr.P.C. in his favour.

55. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)