MHKO010020602026

ORDER BELOW EXH.1 IN CRI. BAIL APPLN.NO.529/2026

(Akshay Ramesh Kamthe Vs State of Maharashtra)

1] Perused application and say. Heard Advocate for applicant i.e. accused No.4 and APP for State.

2] This is second bail application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita (Hereinafter referred as 'BNSS') by applicant in respect of his arrest in C.R.No. 378/2025 registered at P.S.O. Rajarampuri Police Station for offences p/u/sec. 316 (2), 318(4), 351(2), 3(5) of the Bharatiya Nyaya Sanhita (Hereinafter referred as 'BNS') and u/s. 66(c), (d) r/w. 43 of Information Technology Act (hereinafter referred as 'IT Act'). First informant and her husband were Professors and after their retirement they are residing at Kolhapur. On 18/4/2025, at 1.30 p.m. first informant received call on her mobile from unknown person who asked her that he was talking from TRI Department and in Colaba Police Station. Unknown person told her that complaint was lodged against her on 2nd January, 2025, phone will be disconnected in two hours. Complaint was registered bearing No. MH56210225 i.e. Naresh Goyel Money Lending and Investment Fraud case involving amount of Rs.6 Crore. Her Aadhaar card was attached in that scam. Then first informant received WhatsApp video call on her mobile. They were three persons at opposite side, behind them 'Mumbai Police' was written. So first informant thought that they were real police. They asked her that her acts were illegal and she has to fight case in Hon'ble Supreme Court. Her Bank details are seen in RBI. They pretended that case was going on against her by showing court set up. Therefore for verification she has given information of her bank details. She received various calls from different mobile numbers for depositing amount and due to fear, from joint account of herself and her husband she transferred total amount of Rs.3,57,23,000/- on different bank account through RTGS and NEFT. She was deceived and she filed report against three unknown persons.

3] According to applicant, he is falsely implicated. He has not committed alleged offence. After completion of investigation charge-sheet is filed. Applicant is behind bar for about 12 months and trial is not commenced. His continued detention amounts to pre-trial punishment. No specific overt act is attributed to him. Case is based on circumstantial, electronic evidence. Nothing is recovered from applicant so there is no material to connect applicant with mobile numbers used in offence. His mobile phone is already seized. Previous bail application was rejected but there is change in circumstances due to prolong incarceration. It is settled principle that bail is rule and jail is an exception. Applicant is 30 years old and doing service. He is residing at Sasavad, Tal. Purandar Dist. Pune. His family members are depending on him. He is ready to abide conditions. So he prayed to release him on bail.

4] APP, I.O. objected application on the grounds that though charge sheet is filed, as per allegations applicant and others have used virtual private number in crime. In order to conceal their identity they used telegraph and WhatsApp. There is collusion of applicant and other accused. During physical search and house search mobile phone used by applicant i.e. accused No.4 is seized and certain information is reflected. It revealed that applicant and accused No. 5 were in contact with Company and as per information received from various companies they were using different bank accounts for purpose of defrauding. Applicant has used bank accounts of Indusind bank and ICICI bank, details of which are given in reply. In Union Bank Account of applicant, from September 2024 to 30/6/2025 amount of Rs.51,71,526/- was credited and those were transferred in other accounts. It revealed that mobile Number from which WhatsApp calls were made to first informant are having IP Address of Oracle India Pvt. Ltd; Company in China Country. Such type of economic offences are increasing and people are cheated for huge amount. Applicant is resident of Pune and he has criminal antecedents. Offence of similar nature vide C.R.No.438/2025 at Juna Rajwada Police Station for offences p/u/s. 316 (2) 318(4) of IPC and Sec. 66(c) and (d) of I.T. Act is pending against applicant. Applicant will tamper prosecution evidence and there is possibility of repeating offences. So they prayed to reject application.

5] Allegations against the applicant is serious. As per FIR and contents in charge-sheet, all accused No. 1 to 14 are in collusion with each other. First informant received call from unknown number by representing that they were talking from TRI Department and in Colaba Police Station Complaint was received in Money lending and Investment fraud case involving amount of Rs.6 Crore. First informant was repeatedly called on phone by various numbers and by showing fear of her arrest by preparing set up of Court and pretending that she has to fight her case in Hon'ble Supreme Court. In order to avoid arrest, three unknown persons made her to transfer amount of Rs.3,57,23,000/- from joint account of first informant and her husband. All information about her bank details were taken by those unknown person and she was deceived for huge amount.

6] Advocate of applicant submitted that he is not involved in alleged offences. Nothing is recovered from him and no role is attributed to him in FIR. After filing of charge-sheet there is no progress in trial and prolonged incarceration of applicant is change in circumstances. APP for State submitted that there are allegations of cheating first informant by way of digital arrest and she was induced to deliver Rs.3,57,23,000/-. So far as role of applicant is concerned, as per investigating officer out of that amount, amount of Rs.51,71,526/- was transferred in account of applicant i.e.

accused No.4 of Union Bank and later it was transferred to other bank accounts. In charge-sheet bank details of first informant are filed in order to show transfer of amount. So there is gravity of offence.

7] Advocate of applicant submitted that co-accused Sanket Nhavale, Tejas Bhalerao, Kshitij Sutar are released on bail by Hon'ble High Court, copies of orders of Hon'ble High Court in Cri. Bail Appln.No.3635/ 2025, 3740/2025 and 360/2026 are filed. In addition to that Advocate of applicant filed copy of FIR, rozanama of RCC No. 1212/2025, arrest memo of applicant and copy of order dt. 4/3/2026 of Hon'ble High Court in Cri. Bail Appln.No. 3762 of 2025. It shows that Advocate of present applicant seeks leave to withdraw the application with liberty to approach to this Court in the event trial does not progress after one year. Therefore his bail application stands dismissed as withdrawn with aforesaid liberty i.e. to approach to Hon'ble High Court in the event trial does not progress after one year.

8] Advocate of applicant relied on authorities cited in (i) **P. Chidambaram Vs. Directorate of Enforcement reported in (2019) AIR (SCW) 4198**, (ii) **Ramesh Bhavan Rathod Vs. Vishanbhai Hirabhai Makwana Makwana (Koli) and Anr. Reported in (2021) AIR (SC) 2011**, in which Hon'ble Apex Court observed that while granting bail, the Court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public /State and other similar considerations. The Courts must consider these factors judiciously and not grant bail mechanically. Parity must be based on role of accused, their position in relation to incident. Seriousness of criminal antecedents of the accused is a relevant consideration while granting bail.

(iii) **Dataram Singh Vs. State of Uttar Pradesh reported in (2018) AIR (SCW) 980** in which Hon'ble Apex Court observed that grant of bail is the general rule, while putting a person in jail is the exception. Presumption of innocence is a fundamental postulate of criminal jurisprudence. Humane attitude should be adopted by judges while considering remand or bail applications. Factors to consider include whether arrest was made during investigation, accused's participation in investigation whether accused was absconding, whether accused is a first-time offender, poverty or indigent status of the accused. Conditions for bail should not be so strict as to be incapable of compliance. While discretion in granting bail is unfettered, it must be judiciously, humanely and compassionately.

(iv) **Dipen Chawda S/o. Jawahar Chawda Vs. State of Chhattisgarh Through Acb/Eow, District Raipur, Chhattisgarh. In MCRC No. 43 of 2026 decided on 3/3/2026** in which Hon'ble High Court held that investigation stands completed and the applicant's custody is no longer required. Hence, antecedents cannot be treated as a stand alone ground for refusal of bail. Applicant has remained in custody for a substantial period investigation qua him stands completed and trial is not likely to commence in the near future considering the voluminous record and large number of witnesses. Guidelines of Hon'ble Apex Court in Sanjay Chandra Vs. CBI, (2012) 1 SCC 40, in Manish Sisodia Vs ED, 2024 SCC OnLine SC 1920 and Javed Gulam Nabi Shaikh Vs. State of Maharashtra (2024) 9 SCC 813 were relied and in above cited rulings it is reiterated that prolonged incarceration pending trial violates Article 21 of the Constitution of India. Continued incarceration serves no investigational purpose. Bail is the rule and jail is the exception.

9] Ratios laid down in all above cited rulings are noted and considered. There are allegations against applicant that huge amount of about Rs.51,71,526/- was deposited in account of applicant since September 2024 to June 2025 i.e. for considerable period and then it was transferred elsewhere. Therefore material role is attributed to applicant and as per documents filed by applicant i.e. copy of bail order in C.R.No.438/2025, say of IO applicant is involved in similar nature of offence within short period. Further he is resident of Pune and there is possibility of his absconding. There is possibility of tampering prosecution evidence considering its nature. Due to above reasons at this stage it is not proper to release applicant on bail and application deserves to be rejected with following order -

ORDER

1] Application is rejected.

2] Since the bail application is filed online, separate physical copy of this order is not maintained. All concerned to act upon digitally signed copy of this order uploaded online.

Digitally signed by RAJSHRI VIJAY ADONE
Date: 2026.07.02 17:34:40 +0530

(Smt. R.V. Adone)

Date : 02.07.2026 Additional Sessions Judge, Kolhapur.

Certificate

" I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-

[A.A.Patil]
(Stenographer G-1)