

IN THE COURT OF THE ADDL. CHIEF JUDICIAL MAGISTRATE,
5TH COURT, DADAR (AT SEWREE), MUMBAI.

Tanmay Lalmohan Maiti ... Applicant/accused.

Versus

The State (Shivaji Park
Police Station, Mumbai.) ... Respondent/Prosecution.

ORDER BELOW BAIL APPLICATION NO.604/2026 ARISING OUT OF
C. R. NO.264/2026 REGISTERED AT SHIVAJI PARK POLICE STATION
UNDER SECTIONS 316(2),316(5), 318(4) OF THE
BHARATIYA NYAYA SANHITA, 2023

Coram: Vaibhav V. Kulkarni,
Additional Chief Judicial Magistrate,
Dadar, Court No. 5 (Camped at
Shewree), Mumbai.

Date: 12th day of June, 2026.

The applicant/accused who has been arraigned as accused in C. R. No.264 of 2026, registered at Shivaji Park Police Station under section 316(2), 316(5), 318(4) of the Bhartiya Nyaya Sanhita, 2023 (for short "***the B.N.S.***") has preferred the present application under section 480 of the Bhartiya Nagarik Surksha Sanhita, 2023 (for short "***the B.N.S.S.***") for enlargement on bail.

Facts responsible for the germination of this application can be stated as under: -

02) The applicant/accused is no way concerned to alleged offences. It is submitted that, the F.I.R. lodged by the informant against the applicant/accused is totally false, frivolous and vexatious and that the applicant/accused is being falsely implicated in present crime. It is stated that, there are no circumstances or legally admissible evidence on record, which even remotely suggest that the applicant/accused has committed any offence as alleged. It is stated that, the informant suppressed the material facts from the court and falsely implicated the

03) It is stated that, the applicant/accused is inhabitant of Diwa (E), Dist. Thane and is a professional artisan/goldsmith of 46 years of age. It is stated that, the applicant/accused having immovable property within the vicinity of Diva (E), Thane and he is also doing business of procuring raw gold, converting the same into refined jewellery ornaments such as necklace, rings and chains, therefore, there is no chance to abscond. The applicant/accused is ready and willing to appear before investigating agency as and when his presence is necessary and abide any other condition if imposed by the court. Therefore, the applicant/accused requested to release him on bail.

04) Perused the application and say given by the Ld. APP and IO. I have heard the learned advocate representing the applicant/accused and the learned A.P.P.

05) The learned A.P.P. and I.O. opposed the application by filing their separate say on following grounds:-

- a) The accused is involved in serious offences.
- b) Investigation is in progress.
- c) There are chances of tampering of evidence of prosecution.
- d) There is prima facie evidence to show that accused has committed the offence of cheating and fraudulently deceived the informant of Rs.4,77,02,000/-.

06) On the basis of grounds as stated above, the learned A.P.P. and I.O. urged for rejection of the application.

07) Following points emerges for my discussion and I have recorded my findings thereon for the reasons to follow: -

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<u>Sr. No.</u>	<u>Points</u>	<u>Findings</u>
1)	Whether the applicant/accused has made out grounds to release him on bail?	No.
2)	What order?	Application stands rejected.

:- REASONS :-

As to Point Nos.1 and 2:-

08) Admittedly, the applicant/accused have filed present application under the provisions of section 480 of the B. N. S. S. Time and again Honourable Apex Court and Honourable various High Courts have been interpreted and the guidelines for the grant or refusal of bail have been enumerated in various judgments. However, in ***Prahlad Singh Bhati V/s. N.C.T, Delhi and another [(2001) 4 SCC 280]*** the Honourable Apex Court has given the following valuable and illuminating guidelines in its para 8 as under : -

“8. The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner.

While granting the bail, the Court has to keep in mind : -

- a. the nature of accusations,
- b. the nature of evidence in support thereof,
- c. the severity of the punishment which conviction will entail,
- d. the character, behaviour, means and standing of accused,
- e. reasonable possibility of securing the presence of the accused at the trial,
- f. reasonable apprehension of the witnesses being

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tampered with,

- g. the large interest of the public or State, and
- h. similar other considerations.

09) It has also to be kept in mind that for the purpose of granting the bail the legislature has used the words “reasonable grounds for believing” instead of “the evidence” which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima-facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

10) Recently Hon’ble Apex Court in case of **Satendrakumar Antil Vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825** issued guidelines for granting bail and guided us in the words of caution what factors are required to be kept in mind while dealing with bail applications.

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11) In present case accused is involved in serious offence like 318(4) of the B. N. S. An offence punishable under section 318(4) of the B. N. S. is economical offence. Hon’ble Supreme Court in case of **Y.S. Jagan Mohan Reddy Vs. CBI, (2013) 7 SCC 439** held as : -

“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.”

12) Further, the Hon'ble Supreme Court underlined the need to visit the provision of bail in economic offences different than the regular bail as : -

“While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of punishment which conviction will entail, the character of the 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 interests of the public/State and other similar consideration”.

13) Taking cue from the above proposition of law, the facts and circumstances arise in the present case are required to be looked into.

14) The learned Advocate for the applicant/accused much harped on the point that, the crux of allegations made by the informant in the entire F. I. R. clearly goes to show that, the transaction between the informant and accused was purely commercial and structural, arising from a failure to manufacture and return a substantial volume of gold (approximately 2.250 kg) valued approximately Rs.3,53,70,000/- for job work and procurement purposes, allegedly given on 14/05/2026 and 15/05/2026. It is submitted that, the dispute is inherently contractual and commercial and therefore extreme step of invocation of penal provisions is uncalled for, as the primary intent was purely commercial business and subsequent inability to perform job work arises from a sudden catastrophic business collapse. Therefore, the applicant/accused vehemently denies the accusation of fraudulent intent or dishonest appropriation right at the inception of the transaction. Therefore, the

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alleged overt act in the F. I. R. not come within the purview of any of the penal provision of the B. N. S.

15) The another limb of the argument advanced by the learned advocate representing the applicant/accused is that, the applicant/accused voluntarily surrendered before the Khanakul Police Station, Hoogli District, West Bengal on 26/05/2026 at about 12.15 a.m. It is submitted that, following his surrender he was kept in police custody for more than 24 hours prior to being transported to Mumbai and produced before a transit/holiday court on 27/05/2026 at around 03.30 p.m. It is submitted that, initially he was remanded in police custody of four days i.e. till 30/05/2026. Thereafter, PCR of the accused has been extended till next three days. When accused was produced before the incharge court on 02/06/2026, he was again remanded in PCR till 04/06/2026. It is submitted that, in the present case the applicant/accused's physical liberty has been heavily subjected to deep, multiple phased custodial confinement across multiple court rooms without yielding a single gram of physical recovery at the instance of applicant/accused.

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16) The learned advocate representing the applicant/accused vehemently submitted that prior to arrest fo the applicant/accused the police recovered the handwritten Bengali distress letter directly from the applicant's bag. Despite this letter explicitly describing a violent weapon - point robbery at Churney Raod Station that caused his psychological breakdown, the police deliberately uses not to investigate the alleged robbery case. It is submitted that the entire investigation is going on on the behest of the Mr. Sanjay Jain who is influential personality and wealthy jeweller in Jhaveri Bazar, Mumbai. It is submitted that, the applicant/accused has been arrested merely on suspicion. It is submitted that in order to attract penal provision of Section 318(4) of the B. N. S., fraudulent or dishonest intention is required to be shown right at the

inception. After considering the matter before the court, the record prima facie shows that, there is no material before the court to attribute the role of the applicant/accused.

17) As against this the learned A. P. P. vehemently submitted before this court that, informant and accused were well acquainted with each other and having regular business dealings for more than fifteen years. It is submitted that, the informant having full faith and trust on the accused, therefore, informant used to entrusted gold of huge quantity to the applicant/accused in good faith. It is submitted that, the applicant/accused committed criminal breach of trust and duped the informant to the tune of Rs.4,77,02,000/-. It is submitted that, the matter is at the stage of investigation and therefore considering the gravity of alleged offences, it is not lawful to release the applicant/accused on bail. In support of his submissions he placed his reliance on following case laws : -

- 1) Aarif Pipadawala Vs. State of Guj. AIR OnLine 2018 Guj-267
- 2) Jyoti Kaur Kohli Vs. State of Maharashtra, (2014) 3 BomCR (Cri) 116.
- 3) Prahlad Singh Bhati V/s. N.C.T., Delhi and another [(2001) 4 SCC 280]
- 4) Sandeep Kumar Bafna Vs. State of Maharashtra, 2014 (16) SCC 623.
- 5) Satendrakumar Antil Vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825.

18) I have pondered over the submissions made by the learned advocate of the applicant/accused and the learned A. P. P. Gone through the case laws relied upon by the learned A. P. P. and notes of written submissions submitted by the learned advocate of the applicant/accused. Also gone through the copy of F. I. R. On perusal of the FIR it reveals that, during the period from 14/05/2026 to 15/05/2026 the informant entrusted 2250 gm. gold (24 Caret) worth Rs.3,53,70,000/- to the applicant/accused for making golden ornaments. Like the informant,

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Bala Laxman Kolekar and Mahesh Pandurang Vaidya also entrusted 625 gm (22 Carat) gold and 84.034 gm gold worth Rs.86,12,15,333/- for making the golden ornaments. However, after accepting the said gold, the applicant/accused misappropriated the said property for personal gain, and therefore, on the basis of the report of the informant, offence has been registered against the applicant/accused.

19) It is the matter of record that, the applicant/accused originally hails from West Bengal. He has been arrested on 26/05/2026 at about 10.15 a.m. After seeking transit remand of the said applicant/accused from the nearest Magistrate i.e. Addl. Chief Judicial Magistrate, Arambh, Hooghly, West Bengal, applicant/accused has been produced before the jurisdictional magistrate on 27/05/2026. On his production applicant/accused was remanded in police custody remand till 30/05/2026. Thereafter, on two occasions PCR has been extended and lastly applicant/accused has been taken into magisterial custody remand on 04/06/2026.

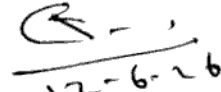
20) As per settled practice and procedure of law, for considering bail two things are always balanced- (1) requirement of criminal justice which is manifested as social interest, sometimes it is also reflected as police power to restrict liberty of a man who is alleged to have committed crime, and (2) presumption of innocence in favour of alleged accused which is usually shown as individual interest. It is well settled that, while considering an application for bail Court cannot lose sight of serious nature of accusation against accused and the facts that have bearing in the case. In present case the accused is involved in serious offence like 318(4) of the B. N. S. There are reasonable grounds for believing that, applicant/accused will use liberty to suborn evidence. In the circumstances, it is not lawful to release the applicant/accused on bail till completion of the investigation.

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21) Thus, having regard to the facts and circumstances and after giving anxious consideration to the proposition of law, I have no hesitation to hold that the applicant/accused have not made out grounds to release them on bail. Therefore, I answer point No. (1) in the negative and in answer to Point No. (2), I pass the following order:-

:- ORDER :-

- (i) The application stands rejected.
- (ii) The copy of this order be forwarded to the applicant/accused through Superintendent of Jail, via e-mail.



(Vaibhav V. Kulkarni)

Date : 12/06/2026.

Addl. Chief Judicial Magistrate,
5th Court, Dadar (At Sewree), Mumbai.