

ORDER BELOW EXH. 50 IN SPL. CASE NO.188/2024
State Vs. Vijaya Gosar & others.
CNR No. MHSN170043232020

This application is filed under section 479 of B.N.S.S. 2023 on behalf of accused no.2 Anil Vaman Bhaire.

2. It is contended that the accused persons are alleged to have committed an offence punishable under section 420, 417, 406 r/w 34 of the I.P.C. The complainant and accused persons are attached to the company namely Ossum Our Opportunity Pvt. Ltd. Company having chartered plane of his ownership and the company deals in real estate, trading, net marketing and various kinds of business. The company also runs training center for pilot. It is alleged that the complainant and his friend were compelled by the accused to purchase the good worth Rs.1,11,000/- and they will get commission @ 1% per day for 250 days on said amount. Thereafter the complainant and the persons acquainted to him invested Rs.80,00,000/- in the said company at the instance of accused. The investors were promised by the accused that they will get handsome return on their investment, but they neither get any return nor get back invested amount, so complaint came to be lodged.

3. It is further alleged that crime was registered in the year 2019 and thereafter accused was arrested. He is behind the bar since last about four and half years. The alleged transaction was of civil nature, but with ulterior motive the complainant lodged false complaint against the accused. No prima facie evidence on

record against the accused.

4. According to the accused, he is falsely involved in the crime. The bail application submitted before filing charge-sheet was rejected on the ground that investigation was going on. It is not certain as to when the matter is finally decided. The case is based on documentary evidence, therefore question of tampering prosecution evidence does not arise. The accused is educated person and having reputation in the society. The applicant has no criminal history. He is ready to obey conditions imposed by the court, if released on bail.

5. The Investigating Officer has filed say below Exh. 52 and prayed to reject the application. It is contended that accused was absconding and he was taken in custody on 10/10/2021 from Ratnagiri. The crime was registered on 30/11/2019. The accused is director of Ossum Our Opportunity Company and used funds of the company for personal purpose. Accused did not hand over money during the period of custody. If he released on bail, there is possibility of disposing of amount involved in crime of fraud. Other crimes are registered against the accused which shows he is habitual offender. If he released on bail, he will abscond and will go to abroad. At the time of inquiry, the accused has not stated about where he purchase movable or immovable property from the fraudulent amount. He gave information about some property, but did not give information about remaining properties. The anticipatory bail application of the accused was rejected by the Hon'ble High Court. After examination of bank statement of the

said company, it is observed that money has been deposited in that account from state of Maharashtra and from other states. Hence, there is possibility of cases being registered against the accused in the state of Maharashtra and other states. The Crime is serious in nature. The accused persons committed fraud of Rs.80,00,000/- out of which accused No.3 has presented Rs.5,00,000/-, remaining amount had not been presented. If the accused released on bail, he will not remain present in the court.

6. Ld. Advocate Shri. N. V. Patil for accused No.2 has filed written notes of argument below Exh.53 and stated contents of application in it. It is mentioned the maximum punishment prescribed for the offence under section 420 is seven years and the accused has been undergone more than 4 years continuous judicial custody, hence he is entitled to enlarge on bail as per section 479 of B.N.S.S. 2023. The continuous detention of accused would amount to pre-trial punishment.

7. Ld. A.P.P Shri. S. R. Hingmire has submitted that the accused has committed serious crime and cheated to the middle class people. The accused has no right to file application under section 479 of B.N.S.S. There is evidence on record against the accused which shows guilt of the accused. The accused had given false information about the alleged company and accepted huge amount from public at large which shows involvement of accused in the crime. It is prayed application be rejected.

8. Section 479 of B.N.S.S. provides:-

1) where a person has, during the period of investigation,

inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail.

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law :

Provided further that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail bond instead of his bond.

Provided also that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.

Explanation – In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.

2) Notwithstanding anything in sub-section (1), and subject to the third proviso thereof, where an investigation, inquiry or trial in more than one offence or in multiple cases are pending against a

person, he shall not be released on bail by the Court.

3) The Superintendent of jail, where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub-section (1) for the release of such person on bail.

9. The accused is charge-sheeted for the offences punishable under section 406, 417, 420 r/w. 34 of I.P.C and section 3 and 4 of M. P. I. D. Act. He was arrested on 10/10/2021. It appears from the record that custody of the accused handed over in Crime No. 481/2019 registered with Vidhyadhar Nagar Police Station, Jaipur(North) vide order dated 24/11/2021 to A.S.I. Bhairu Ram. The accused was also taken for investigation by C.I.D. Crime Surat Zone, Gujarat State Gandhinagar in connection with the offence registered before CID Crime Police Station vide I, C.R. No. 11201016210002/2021 under section 406, 409, 420, 120B of the I.P.C., section 4, 5, 6 of the Prize Chits and Money Circulations Schemes Banning Act, Section 66(D) of I.T. Act and Section 3 of G.P.I.D. Act.

10. Ld. Advocate Shri. N. V. Patil has filed his affidavit below Exh.55 stating that contents in the affidavit are true and correct. In this affidavit the cases registered against the accused and the status of the case is mentioned. The accused has produced online copies of bail orders, judgment, alongwith list Exh.57. It seems that the accused is released by the Hon'ble High Court of Judicature for Rajasthan, Bench At Jaipur vide order passed in

Criminal Misc. Bail Application No. 4446/2022 dated 04/04/2022. This order is passed in connection with F.I.R.No.481/2019 registered at Police Station, Vidhyadhar Nagar, Jaipur City (North) for the offences punishable under section 420, 406, 120B of I.P.C. The Hon'ble High Court of Gujarat at Ahmadabad passed order in R/Criminal Misc. Application (for Regular Bail-after charge-sheet) No. 21562/2024 dated 07/02/2025 (converted from CR.MA/41088/2024 dated 23/10/2024) and enlarged the accused on bail. This order is passed in connection with F.I.R. bearing Crime No.11201016210002/2021 registered in CID Crime Surat Zone Police Station, Surat under section 406, 409, 420, 120B of the I.P.C., section 4, 5, 6 of the Prize Chits and Money Circulations Schemes Banning Act, Section 66(D) of I.T. Act and Section 3 of G.P.I.D. Act.

11. In the Special (M.P.I.D.) Case No.373/2021 (Crime No.54/2021 registered at Jail Road, Police Station for offences punishable under section 406, 420, 120B r/w. 34 of the I.P.C. and Section 3 & 4 of the M.P.I.D. Act), the accused is acquitted by the Special Judge, (M.P.I.D.) Solapur on 30/04/2026. The accused is also acquitted by the Addl. Sessions Judge, Khed-Rajgurunagar, Pune from the offences punishable under section 406, 420 r/w. 34 of I.P.C. and Section 3 of the M. P. I. D. Act (Special(M.P.I.D.) Case No.84/2022, crime no. 213/2021 of Aalandi Police Station offence under section 420, 406 r/w.34 of I.P.C. and Section 3 & 4 of M.P.I.D.Act).

12. From the aforesaid facts, it appears that in two criminal

cases the accused has been acquitted and he is bail out in another two criminal cases. It is the record that accused is in jail since 10/10/2021. On 09/12/2025 the accused transferred to Kalamba Jail and prior to it he was in Jaipur Central Jail.

13. The punishment to section 3 of M.P.I.D. is imprisonment for a term which may extend to 6 years and fine. The punishment to section 406 of the I.P.C. is imprisonment of either description for a term which may extend to 3 years or with fine or with both. The punishment to section 417 of the I.P.C. is imprisonment of either description for a term which may extend to 1 year or with fine or with both. The punishment to section 420 of the I.P.C. is imprisonment of either description for a term which may extend to 7 years and shall also be liable to fine.

14. From the documents produced on record, it is clarified that the accused is enlarged on bail in two matter and acquitted from two matters. He is in jail since 2021. In this matter charge yet to be framed. Time requires to conclude the trial. The prosecution has not taken any efforts to proceed with this matter. As per the section 479(2) of B.N.S.S. the accused is not entitled to release on bail, if investigation, inquiry or trial in more than one offence or in multiple cases are pending against the accused. As stated above, the accused is enlarged on bail in two criminal cases and he is undergone detention for a period extending upto one half of maximum period of imprisonment of the offences leveled against him.

15. The accused had filed a bail application before

submitting charge-sheet and said application came to be rejected. Thereafter this application is filed. Any how the accused is in jail since 2021 means he is under trial prisoner near about five years therefore provision of section 479(1) of the B.N.S.S. is applicable to enlarge the accused on bail. At present the accused is on bail in other two pending matter and in jail in present matter. The period undergone by the accused is more than $\frac{1}{2}$ maximum period of imprisonment of the offences levelled against the accused. The accused is ready to furnish bail and to remain present in the court regularly. I do not find any substance in the say of I.O. because nothing remains to collect from the accused. Moreover, the prosecution case is based on documentary evidence and the Investigating Officer had collected those documents and submitted in charge-sheet.

16. In view of all above reasons and considering affidavit filed by Ld. Advocate and documents produced on record, I think it is fit case to enlarge accused on bail. Accordingly, I pass following order.

ORDER

- 1) The Application is hereby allowed.
- 2) Accused No. 2 Anil Vaman Bhaire is released on regular bail on the following conditions and on executing PR bond of Rs.50,000/- with one surety of like amount.
 - a) Accused shall not directly or indirectly hamper or tamper with the evidence of prosecution or prosecution witnesses.

- b) Accused shall produce proof of his permanent address, copy of Aadhar card/voter ID card/PAN card.
- c) Accused shall furnish active mobile numbers and addresses of his two nearest relatives in the Court.
- d) Accused shall remain present regularly in the court for trial.
- e) The accused shall surrender his passport if any within a week from today.
- f) The accused shall not leave Indian without prior permission of this court.
- g) Accused shall not misuse his liberty in any manner.
- 3) If any of the above conditions are breached, the application shall be deemed to have been rejected.
- 4) This order be sent to Superintendent, Jail Authority, Kalamba Jail through e-mail for information.
- 5) This application is decided and disposed off accordingly.

Date : 08/07/2026.

(Usha. V. Indapure)
Addl. Sessions Judge,
Vita.

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same word to word, as per the original order.

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| 1. Name of the Stenographer | :- | Shri. S. K. Patil
Steno Grade-I. |
| 2. Court Name | :- | District Court-2, Vita |
| 3. Date of Order | :- | 08/07/2026 |
| 4. Signed by the Presiding Officer. | :- | 08/07/2026 |
| 5. Order uploaded on | :- | 08/07/2026 |