

CRM-M-23555-2025

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2025:PHHC:177489



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-23555-2025

Date of decision: 22nd December, 2025

Rajeev Kumar Rana

...Petitioner

Versus

Serious Fraud Investigation Office

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Nitin Gupta, Advocate for the petitioner.

Ms. Puneeta Sethi, Senior Panel Counsel and
Mr. Y.S. Thakur, Advocate for the respondent-SFIO.

MANISHA BATRA, J (ORAL):-

In the instant petition, indulgence of this Court is sought for grant of regular bail to the petitioner, in criminal complaint bearing CIS No. COMA/05/2019 titled as *SFIO versus Adarsh Build Estate and others*, filed by the respondent under Sections 417, 418, 420 and 477-A of IPC read with Section 120-B of IPC, Sections 147 and 447 of the Companies Act, 2013 (**For short 'Companies Act'**) and Sections 58-A, 211(7), 227 and 628 of Companies Act, 1956, as pending in the Court of learned Additional Sessions Judge/Special Court, Gurugram.

2. The aforementioned complaint has arisen out of order dated 20.06.2018 passed by the Central Government through Ministry of Corporate Affairs (**hereinafter referred to as "MCA"**), whereby the MCA, in exercise



of the powers conferred under Section 212(1)(c) of the Companies Act and Section 43(2)(3)(c)(i) of the **Limited Liability Partnership Act, 2008 (For short “LLP Act”)**, ordered an investigation into the affairs of Adarsh Group of Companies and its 125 Limited Liability Partnership Companies (**hereinafter referred to as ‘companies under investigation’ or ‘CUIs’**) by the Serious Fraud Investigation Office (for short “*SFIO*”) on the allegations of siphoning of funds of Adarsh Credit Cooperative society Limited (**For short “ACCSL”**). As per the investigation conducted, huge amount of funds of ACCSL, which actually belonged to two lakh depositors and were running into several crores of rupees, were received by the CUIs on unsubstantial and questionable projected balance sheet and financial statements. Both CUIs as well as ACCSL were controlled by Mukesh Modi who along with his family members and associates, was found involved. In a complaint submitted by the complainant, the present petitioner was arrayed as accused No.177. This complaint has to be considered as a report presented under Section 173 of the Code of Criminal Procedure in terms of the provisions of Section 212(15) of the Companies Act.

3. Vide order dated 03.06.2019 passed by learned Sessions Judge-cum-Special Judge under Companies Act, the petitioner was summoned under Section 447 of the Companies Act, whereas process was issued against the other individuals and companies arraigned as accused for commission of offences punishable under different provisions of Indian Penal Code as well as under Section 447 of the Companies Act. The petitioner, who was a partner to the extent of 18% in the ABL, project that was started at Dehradun by **Adarsh Build Estate**



Limited (for short, 'ABEL'), one of the 70 CUIs, was brought under the fold of investigation on the allegations that he being an authorized signatory of ABL project, siphoned off funds in an illegal manner by securing the same from ACCSL. He allegedly siphoned off a sum of Rs. 45.20 crores by misusing his authorization and by taking benefit of his position, on the pretext of work of the project but the above said amount was utilized for his personal benefits and benefits of associated individuals/entities. He had also withdrawn an amount of Rs. 19.93 crore from ABL project in the form of advances but only an amount of Rs. 9.72 crore was explained subsequently. The petitioner was arrested on 22.07.2022.

4. It is argued by learned counsel for the petitioner that he has been in continuous incarceration for a period of about 03 years and about 05 months. He had joined investigation several times before filing of complaint but was never arrested during the course of investigation and, as such, there existed no justification for arresting him or keeping him in custody after filing of the complaint. He has been extended the benefit of bail in other cases relating to ACCSL and registered in the State of Rajasthan. In the complaint/investigation report, he has been categorised under the category of Directors/employees, though he was neither a director nor an employee of ABL. He cannot be kept in custody for an indefinite period even in cases of application of twin conditions under Section 212(6) of the Companies Act, as there is no likelihood of completion of trial, and the same would tantamount to violation of Article 21 of the Constitution of India.



5. It is further argued that after dismissal of his first petition for grant of bail as filed before the learned Special Court, a period of more than three years has expired. His previous petition had been dismissed by this Court on 09.11.2023 i.e. for a period of more than two years. There has been no progress whatsoever in the complaint, as even charges have not been framed. There are 112 companies and 75 individuals, who have been summoned as accused. There is no foreseeable prospect of conclusion of trial in the near future. He is suffering from several ailments and requires regular medical intervention, which is not being provided in the jail. His prolonged incarceration has amounted to punishment without trial, which is impermissible under Article 21 of the Constitution of India. He was having only 18% share in the ABL Project. A project of the partnership firm stands substantially completed and even possession has been given to a large number of allottees. He had no role whatsoever in the sourcing of funds by Adarsh Build Estate Ltd., and his involvement was confined solely to the execution and development of real estate project as a minority stakeholder in the partnership firm. In fact, through proper banking channels, he had repaid an amount of Rs. 82.51 crores, full details of which were duly shared by him with the respondent during the course of investigation. With these broad submissions, it is argued that he deserves to be extended the benefit of bail. To buttress his argument, learned counsel for the petitioner has placed reliance upon *Sujay U Desai vs. SFIO, 2022 SCC OnLine SC 1507; Jainam Rathod vs. State of Haryana, 2022 SCC OnLine SC 1506; Ranjit Singh Brhamsing Sharma vs. State of Maharashtra and another (2005) 5 SCC 294; Union of*



India vs. K.A. Najeeb (2021)3 SCC 713; Ashish Mittal vs. SFIO, 2023 SCC Online Del 2484; Satender Kumar Antil vs. CBI and another (2022) 10 SCC 51 and Tarsem Lal vs. Directorate of Enforcement, Jalandhar Zonal Office SLP (Crl.) No. 121 of 2024.

6. *Per contra*, learned Senior Panel Counsel for the respondent has argued that the petition is not maintainable, as the same is a second successive petition seeking regular bail. His first petition had been dismissed by this Court, and the order declining bail by this Court has been upheld by the Hon'ble Supreme Court as well, since the Special Leave Petition filed by the petitioner was also dismissed. As such, the present petition is not maintainable. There is also no material change in the circumstances, which is sine qua non for maintainability of a successive petition. The petitioner concealed the fact that he had avoided his apprehension and even proclamation proceedings were initiated against him in the past. His conduct to that effect does not entitle him to seek concession of bail. There are chances of his absconding again if extended benefit of bail.

7. It is further argued that the conditions which are spelt out under Section 212(6) of the Companies Act have not been fulfilled. The petitioner cannot claim any parity with the co-accused who have been extended the benefit of bail, as he is found to have been involved in a concerted course of action by siphoning off a huge amount of money in connivance with the co-accused. Only on account of prolonged incarceration, he cannot seek concession of bail. A huge loss of money has been caused to innocent investors of ACCSL. The orders passed by this Court granting the benefit of



anticipatory bail to some of the co-accused have been set aside by the Hon'ble Supreme Court, and they have been directed to surrender before the Special Court. Keeping in view the role assigned to him, the present one being a case of commission of an economic offence involving a huge amount of money, constitutes a class apart and needs to be visited with a different approach. As such, the petitioner does not deserve to be extended the benefit of bail. It is, thus argued that the petition is liable to be dismissed.

8. This Court has heard learned counsel for the parties at considerable length.

9. So far as the contention raised by learned counsel for the petitioner to the effect that, since he had joined the investigation several times before filing of the complaint/investigation report before the learned Special Court, hence, in view of the provisions of Section 88 of the Code of Criminal Procedure (which are pari materia with Section 91 of the BNSS), he was entitled to be released on bond and could not be taken or kept in custody for a long period of time, is concerned, this Court, in this context, seeks reliance upon the judgment rendered by the Hon'ble Supreme Court in ***Pankaj Jain v. Union of India, (2018) 5 SCC 743***, wherein it was observed that there was no question of an accused getting an automatic right to bail if he appears before the Court pursuant to the summons issued by a Court. It is the discretion of the Court whether to grant bail to accused or not, while taking into consideration all the relevant factors meant for consideration of bail. In view of these observations, there cannot be held to be any force in this contention of petitioner.



10. The petitioner has been summoned for commission of offence punishable under Section 447 of the Companies Act for committing an economic offence. Section 212 of this Act provides a procedure for conducting investigation by SFIO on the orders of competent authority. Sub Section 6 of Section 212 provides a twin test showing that notwithstanding anything contained in the Code of Criminal Procedure, the offence under Section 447 of Companies Act shall be cognizable and an accused of such offence shall not be released on bail unless and until opportunity to oppose the application is granted, and further, in the opinion of the Court, there are reasonable grounds for believing that the petitioner is not guilty of offence and that he is not likely to commit any offence while on bail subject to further conditions.

11. In *Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation, 2013 (3) RCR (Criminal) 108 SC*, the Hon'ble Supreme Court while considering the issue of bail in case of economic offences has observed that such offences constitute a class apart and need to be visited in a different approach in the matter of bail. As such offences are having deep rooted conspiracies and involve huge loss of public funds, they need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby passing serious threat to the financial health of country and as such, while granting bail in such cases, the Court is to keep in mind the nature of the accusation, the nature of evidence in support thereof, the severity of the punishment which the conviction still entail, the character of the accused, the circumstances which are peculiar to the accused,



reasonable possibility of securing the presence of the accused at the trial and larger interest of public/state and other similar considerations. Similar observations were made by Hon'ble Supreme Court in *Nimmagadda Prasad v. Central Bureau of Investigation, 2013(3) RCR (Criminal) 175 (SC)*.

12. It will also be proper to refer to the provisions of Section 212(6) of the Companies Act since, the same are relevant for the purpose. As per this Section which starts with a non-obstante clause, no person accused of any offence under Section 447 of the Companies Act, shall be released on bail on his own bond unless the public prosecutor is given an opportunity to oppose the application for such release; and where the public prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

13. In *Rohit Tandon v. The Enforcement Directorate, 2018(5) RCR (Criminal) 35(SC)*, the Hon'ble Supreme Court had observed that the sweep of Section 45 of Prevention of Money Laundering Act, 2002 (For short "PMLA") which is pari materia with Section 212 (6) of the Companies Act, was limited to that Act and it had overriding effect on the general provisions of Code of Criminal Procedure. It was observed that the conditions enumerated in this section were mandatory and should be complied with even in support of an application for bail moved under Section 439 of the Code of Criminal Procedure. It was also observed that the economic offences having deep rooted conspiracies and involving huge loss of public funds needed to be viewed seriously and considered as grave offences.



14. In ***Serious Fraud Investigation Office v. Nittin Johari, 2019 SCC OnLine SC 1178***, it was observed by the Hon'ble Apex Court that the limitation under Section 212(6) with respect to grant of bail is in addition to those already provided in Cr.P.C. and that it is thus necessary to advert to principles governing grant of bail under Section 439 of Cr.P.C. Specifically, heed must also be paid to the stringent view taken by the Courts towards grant of bail with respect of economic offences. The Hon'ble Supreme Court vide order dated 18.04.2022 extended benefit of bail to a co-accused of this case on account of delay in conclusion of trial.

15. In ***Sujay U Desai's*** case (Supra), the accused was arrested for alleged violation of provisions of Companies Act. The twin conditions of Section 212(6) of the Companies Act were applicable. The Hon'ble Apex Court granted benefit of bail to the petitioner by observing that the twin conditions thereunder must yield where prolonged incarceration and trial delay infringes fundamental right.

16. In ***Jainam Rathod's case (supra)***, the Hon'ble Supreme Court vide order dated 18.04.2022, extended the benefit of bail to a co-accused of this very case namely Jainam Rathod, who was in custody since 28.08.2019, by observing that while the provisions of Section 212(6) of the Companies Act, 2013 must be borne in mind, it is equally necessary to protect the constitutional right to an expeditious trial in a situation where a large number of accused implicated in a criminal trial would necessarily result in delay in its conclusion.

17. The previous bail petition of the petitioner had been dismissed by



this Court on 09.11.2023. The petitioner filed a Special Leave to Appeal bearing No.18904 of 2024 which was dismissed by Hon'ble Apex Court by passing the following order on 06.05.2024:-

“Delay condoned.

We are not inclined to interfere with the impugned judgment and hence, the Special Leave Petition is dismissed.

Pending application(s), if any, shall stand disposed of.”

18. The instant one is the second petition filed by the petitioner mainly on the ground that there has been prolonged delay in conclusion of the trial. He has been in custody continuously since 22.07.2022. It is not disputed by the respondent-SFIO that even charges have not been framed so far. It is as such apparent that the trial will take considerable time to conclude. Undisputedly, as observed in *Sujay U. Desai's case (supra)*, the twin conditions under Section 212(6) can be diluted in case of prolonged incarceration. However, it is also to be considered that the petitioner has been summoned under Section 447 of the Companies Act which is a serious offence inviting punishment of imprisonment up to ten years. He formed a partnership firm with one of CUIs of Adarsh Group of Companies and as per allegations, swindled an amount of Rs.85 crores by misusing his position as an authorized signatory of ABEL project. Though it is claimed by him that an amount of Rs.85 crores had been returned by him but no material has been placed on record to show so. As already observed, his previous petition has been dismissed by this Court and he was declined benefit of bail by Hon'ble Supreme Court vide order dated 06.05.2024. Though, a second/successive regular bail application cannot be rejected solely on the ground of



maintainability thereof, but for such petition to succeed, the petitioner is required to show some substantial change in circumstances. In the considered opinion of this Court, however, he has not been able to point out any such substantial change. Merely on the ground of his prolonged incarceration, he cannot be held entitled to seek benefit of bail in this petition especially in the circumstance when his previous petition had been dismissed by passing a detailed order and that order stands upheld by Hon'ble Apex Court.

19. As an upshot of the discussion as made above, this Court is of the considered opinion that no case for allowing the petition is made out. Accordingly, the same is dismissed. The trial Court is, however, directed to expedite the trial by making all possible efforts which may include separation of trial against the accused whose presence has not been secured so far.

20. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and shall not influence the outcome of the trial.

21. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

22nd December, 2025

Parveen Sharma

1. <i>Whether speaking/ reasoned</i>	:	<i>Yes / No</i>
2. <i>Whether reportable</i>	:	<i>Yes / No</i>