



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP (M) No. 485 of 2025

Reserved on: 01.08.2025

Decided on: 08.08.2025

Abhishek Sharma

....Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting?¹ **Yes.**

For the petitioner:

Mr. Manoj Pathak, Advocate.

For the respondent:

Mr. J.S. Guleria and Mr. Ankush Thakur,
Deputy Advocates General.

Sushil Kukreja, Judge

The instant bail application has been filed by the petitioner under Section 483 of *Bharatiya Nagarik Suraksha Sanhita* (for short "BNSS") for grant of regular bail in case FIR No. 120 of 2023, dated 24.09.2023, under Sections 420 and 120B of Indian Penal Code (for short "IPC"), read with Section 5 of the HP Protection of Interest of Depositors Act, 1999 and Sections 21 and 23 of the Banning of Unregulated Deposit Schemes Act, 2019, registered at Police Station Palampur, District Kangra, Himachal Pradesh.

¹ Whether reporters of Local Papers may be allowed to see the judgment?

2. Brief facts of the case, as per the prosecution story, are that on the basis of written complaint made by one Shri Arun Singh Guleria (complainant) on 24.09.2023, a case was registered at Police Station Palampur, District Kangra, HP. It was alleged in the said complaint that a group of individuals, including Subhash Sharma, Hem Raj, Sukhdev (residents of Mandi), Abhishek Sharma (resident of Una), petitioner herein and Milan Garg, (resident of Meerut, UP), engaged in fraudulent activities related to crypto-currency H.P. On the advice of accused Subhash Sharma, the complainant alongwith others had invested in a website, i.e., www.voscrow.io, which was owned by accused Subhash Sharma alongwith Milan Garg and in lieu of their investments, virtual currency was provided through the website. Accused Subhash Sharma alongwith promoters Sukh Dev Thakur and petitioner Abhishek Sharma, allegedly cheated the general public through websites, like Voscrow and Hypenext. During the period between 2019-2020, the aforesaid persons promised the individuals to double their money and such promises continued till 2021 and during that period, some individuals received distributions of funds against their investments, which led to increase in the investments, resultantly many people invested. On 25.12.2021, the allocations were halted by Subhash Sharma and later on, he assured that the allocations would resume soon. Subsequently, Subhash Sharma tied-up with Hypenext,

which was owned by Milan Garg and on being persuaded, the people invested/reinvested in Hypenext again and they also received partial funds against their investments, which practice continued till 2022. Thereafter, due to technical issues, the company requested five months' time for payment and qua which, through a video, Subhash Sharma and Milan Garg informed the entire community. In total, the amount involved was Rs.18 Crores and they acknowledged and promised to activate new IDs on 8th August, 2023 at Aglobal.io, however, neither his (complainant) community, nor he received any money. Hence, it is alleged that Milan Garg, Subhash Sharma, Hemraj, Sukhdev Thakur and petitioner Abhishek Sharma defrauded the people by creating fake website and it was a well-planned conspiracy.

3. As per the FIR, the accused persons were involved in fraudulent activities related to *crypto*-currency and they enticed the people to invest substantial amount(s), promising high returns, which resulted in a collective loss of Rs.18 crores to the complainant and his associates. On 26.09.2023 a Special Investigation Team (SIT) was constituted, which was headed by DIG of Northern Range, Dharamshala, for investigating various *crypto*-currency related fraud cases across the State. It was unearthed that the *modus operandi* of the alleged fraud involved alluring individuals with promise of high

returns on *crypto*-currency investments, creating a network of investors, who recruited others, manipulating *crypto*-currency prices and ultimately causing financial loss to the victims. It was further unearthed that the accused persons used a combination of misinformation, deception and threats to maintain control over their scheme and continued extracting money from unsuspecting investors.

4. During investigation it was revealed that accused Sukhdev Thakur played a pivotal role in introducing petitioner Abhishek Sharma as a new member to actively promote the Korvio crypto platform. On 11.08.2018, petitioner officially registered on the multi-level marketing software, acquiring the distinctive ID-174152. Thereafter, the petitioner orchestrated gatherings in various locations like Mandi, Kullu, Baddi, Chandigarh, Una, Hamirpur, Palampur etc. During these events, the petitioner took centre stage, managing and anchoring programs where he delivered speeches rife with fabricated and exaggerated content. Petitioner Abhishek went to great lengths to assert that the price of the Korvio Coin was organically increasing based on demand. However, in reality, the price was manipulated according to their whims. They falsely asserted that once the coin reached a certain threshold, its value would never drop below \$10. Investigation further revealed that exploiting the trust of depositors, the accused persons encouraged them to bring in family, friends and associates into the Korvio Coin

scheme. When investors sought withdrawals for the coins they held, petitioner Abhishek devised a deceptive strategy. He instructed investors to activate new IDs by using their coins and to collect case from these new joiners against the coins utilized for the activation of those IDs. This calculated misdirection perpetuated the fraudulent scheme, furthering the financial harm inflicted upon unsuspecting investors. On 16.08.2021, petitioner Abhishek made a significant announcement regarding the closure of Korvio Coin associated with Voscrow Company. It was revealed that all the coins assets, previously held by investors under the name Korvio were being transferred to a new company named "DGT". Simultaneously, a novel plan was introduced to entice investors to stake the newly introduced coin, DGT. According to this plan, investors were promised doubling of their staked coins within one year time frame, with coins initially staked at the prevailing rate of \$10. The accused orchestrated a deliberate reduction in the price of the DGT coin, bringing it down to less than \$2. This maneuver executed by petitioner Abhishek was done with a clandestine agreement. By collecting proceeds from investors at the rate of \$10 and subsequently reducing the coin's value to a mere 10 paise, they sought to exploit the significant difference, thereby depriving unsuspecting investors of their hard earned money. This intentional and deceptive manipulation left the general public,

particularly investors, severely deceived and financially harmed. Consequently, on 28.10.2023 petitioner Abhishek Sharma was arrested.

5. Learned counsel for the petitioner contended that the petitioner has no role in the instant case and a false case has been foisted against him. He further contended that there is inordinate delay in conclusion of trial, which infringes upon the right of speedy trial of the petitioner as he is in custody since 28.10.2023 and the trial in the case is not likely to be concluded in near future and keeping in view the fact that the petitioner is behind the bars for the last about one year and nine months, he deserves to be released on bail, as no fruitful purpose would be served by keeping him behind the bars for an unlimited period.

6. Conversely, the learned Deputy Advocate General contended that the present bail application filed by the petitioner is the successive one, which is liable to be dismissed as there is no change in circumstances after the dismissal of the earlier bail application.

7. Pertinently, the present is the successive bail application filed by the petitioner. Earlier, the petitioner had preferred a bail application being Cr. MP (M) No. 1316 of 2024 before this Court, seeking regular bail, which came to be dismissed vide order dated 24.08.2024. Thereafter, the petitioner again preferred bail application

being Cr. MP (M) No. 2546 of 2024 before this Court, which was dismissed, as withdrawn, with liberty to file afresh at an appropriate stage, vide order dated 12.12.2024.

8. It is a well settled principle of law that when the successive bail application comes before the Court, the Court would be very conscious while considering the same. As held by the Hon'ble Apex Court in ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 SC 2292***, that successive bail application can be entertained by the Court when substantial change is established by the accused, which would entitle him for getting bail in successive bail application. The Court should not pass the order of releasing the accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There should be drastic change during the period between two applications, which would entitle the accused for bail.

9. In ***State of M.P vs. Kajad (2001) 7 SCC 673 Hon'ble Supreme Court*** categorically considered that when there are no changed circumstances, the successive bail application is nothing but review of the earlier application which cannot be maintainable. The relevant portion of the aforesaid judgment reads as under:

"8. It has further to be noted that the factum of the rejection of his earlier bail application bearing Misc. case No. 2052 of 2000 on 5.6.2000 has not been denied by the respondent. It is true that successive bail applications are permissible under the changed

circumstances. But without the change in the circumstances the second application would be deemed to be seeking review of the earlier judgment which is not permissible under criminal law as has been held by this Court in Hari Singh Mann v. Harbhajan Singh Bajwa ((2001) 1 SCC 169) and various other judgments."

10. In **State of Tamilnadu vs. S.A.Raja (2005) 8 SCC 380**

Hon'ble Supreme Court has held that:

"9. When a learned Single Judge of the same Court had denied bail to the respondent for certain reasons and that order was unsuccessfully challenged before the appellate forum, without there being any major change of circumstances, another fresh application should not have been dealt with within a short span of time unless there were valid grounds giving rise to a tenable case for bail. Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents."

11. In the case of **Kalyan Chandra Sarkar,vs Rajesh Ranjan**

(2004) 7SCC 528 Hon'ble Supreme Court held as follows:

"20. "Before concluding, we must note though an accused has a right to make successive applications for grant of bail, the Court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the Court also has a duty to record what are the fresh grounds which persuade it to take a view different from the one taken in the earlier applications....."

12. In **Virupakshappa Gouda & another vs. State of**

Karnataka and another (2017) 5 Supreme Court Cases 406 Hon'ble

Supreme Court has held that:

"12. On a perusal of the order passed by the learned trial Judge, we find that he has been swayed by the factum that when a charge-sheet is filed it amounts to change of circumstance. Needless to Say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that

after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons. As is further demonstrable, the learned trial Judge has remained absolutely oblivious of the fact that the appellants had moved the special leave petition before this Court for grant of bail and the same was not entertained. Be it noted, the second bail application was filed before the Principal Sessions Judge after filing of the charge-sheet which was challenged in the High Court and that had travelled to this Court. These facts, unfortunately, have not been taken note of by the learned trial Judge....."

13. A perusal of the aforementioned judgments indicates that successive bail applications are permissible under the changed circumstances, but the change of circumstances must be substantial one, which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence. Without the change in the circumstances, the subsequent bail application would be deemed to be seeking review of the earlier rejection order, which is not permissible under criminal law. While entertaining such subsequent bail applications, the Court has a duty to consider the reasons and grounds on which the earlier bail application was rejected and what are the fresh grounds which persuade it warranting the evaluation and consideration of the bail application afresh and to take a view different from the one taken in the earlier application. There must be change in the fact situation or in law which requires the earlier view being interfered with or where the earlier finding has become obsolete.

14. This Court, confronted Mr. Manoj Pathak, learned counsel for the petitioner, to point out the change in circumstances after the dismissal of the earlier bail application. However, except the contention that there is inordinate delay in conclusion of trial, which infringes upon the right of speedy trial of the petitioner as he is in custody since 28.10.2023, the learned counsel for the petitioner, has failed to point out any substantial change in the circumstances after the dismissal of his earlier bail application, which would entitle the petitioner for release on bail.

15. In the case on hand, as per the material available on record, thousands of investors have fallen victims to the fraudulent scheme, as more than 80,000/- investors have contributed over the past four years with a total investment of around Rs. 2,000/- crores and there is an estimated loss of Rs. 500/- crores to the investors. The investigation, *prima facie*, revealed that the petitioner was the close associate of the main accused Subhash Sharma and was one of the top liners in the chain and the main accused Subhash Sharma had absconded and moved out of India.

16. Although, Article 21 of the Constitution of India guarantees speedy trial and an under trial prisoner cannot be detained in jail/custody for an indefinite period, but, mere period of incarceration or the fact that the trial is not likely to be concluded in near future cannot

entitle the petitioner to be enlarged on bail, as the petitioner is prima facie found involved in an economic offence of huge magnitude. In ***Serious Fraud Investigation Office Vs. Nittin Johari and another, (2019) 9 SCC 165*** the Supreme Court has held that stringent view should be taken by the Court towards grant of bail with respect to economic offences. Paragraphs 24 is extracted hereunder:-

" 24. At this juncture, it must be noted that even as per Section 212(7) of the Companies Act, the limitation under Section 212(6) with respect to grant of bail is in addition to those already provided in CrPC. Thus, it is necessary to advert to the principles governing the grant of bail under Section 439 of CrPC. Specifically, heed must be paid to the stringent view taken by this Court towards grant of bail with respect of economic offences. In this regard, it is pertinent to refer to the following observations of this Court in Y.S. Jagan Mohan Reddy [Y.S. Jagan Mohan Reddy v. CBI, (2013) 7 SCC 439 : (2013) 3 SCC (Cri) 552] : (SCC p. 449, paras 34-35)

"34. 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.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the 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 considerations."

This Court has adopted this position in several decisions, including *Gautam Kundu v. Directorate of Enforcement* [Gautam Kundu v. Directorate of Enforcement, (2015) 16 SCC 1 : (2016) 3 SCC (Cri) 603] and *State of Bihar v. Amit Kumar* [State of Bihar v. Amit Kumar, (2017) 13 SCC 751 : (2017) 4 SCC (Cri) 771]. Thus, it is evident that the above factors must be taken into account while determining whether bail should be granted in cases involving grave economic offences.

17. The Supreme Court in the case reported in **Chenna Boyanna Krishna Yadav Vs. State of Maharashtra and another (2007) 1 SCC 242** has held that when the gravity of offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in near future cannot entitle the petitioner to be enlarged on bail. The relevant portion of the aforesaid judgment reads as under:-

"16..... It is true that when the gravity of the offence alleged is severe, mere period of incarceration or the fact that the trial is not likely to be concluded in the near future either by itself or conjointly may not entitle the accused to be enlarged on bail. Nevertheless, both these factors may also be taken into consideration while deciding the question of grant of bail."
(Emphasis supplied)

18. In the case of **State of Bihar and another Vs. Amit Kumar alias Bachcha Rai (2017) 13 SCC 751** the Supreme Court has reiterated that where there is seriousness of the offence, the mere fact that the accused is languishing in jail during trial should not be the concern of the courts. The relevant portion of the aforesaid judgment reads as under:-

"8. A bare reading of the order impugned discloses that the High Court has not given any reasoning while granting bail. In a mechanical way, the High Court granted bail more on the fact that the accused is already in custody for a long time. When the seriousness of the offence is such the mere fact that he was in jail for however long time should not be the concern of the courts. We are not able to appreciate such a casual approach while granting bail in a case which has the effect of undermining the trust of people in the integrity of the education system in the State of Bihar."

19. In ***Vijay Madanlal Choudhary and Others Vs. Union of India and Others, (2023) 12 SCC 1***, it has been categorically held as under:

“324. Section 436A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be detained further. Indeed, Section 436A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the Court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial.”

20. In a recent decision in ***Tarun Kumar Vs. Assistant Director Directorate of Enforcement, reported in 2023 SCC OnLine SC 1486***, it has been held by the Hon'ble Supreme Court as under:-

“21. The apprehension of the learned counsel for the appellant that the trial is likely to take long time and the appellant would be incarcerated for indefinite period, is also not well founded in view of the observations made by this Court in case of *Vijay Madanlal* (supra). On the application of Section 436A of the Code of Criminal Procedure, 1973, it has been categorically held therein that: -

“419. Section 436A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be detained further. Indeed, Section 436A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the Court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436A of the 1973 Code, however, the Court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the Court even longer than one-half of the period,

for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial."

22. Lastly, it may be noted that as held in catena of decisions, the 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. Undoubtedly, economic offences have serious repercussions on the development of the country as a whole. To cite a few judgments in this regard are *Y.S. Jagan Mohan Reddy v. Central Bureau of Investigation*, *Nimmagadda Prasad v. Central Bureau of Investigation*, *Gautam Kundu v. Directorate of Enforcement (supra)*, *State of Bihar v. Amit Kumar alias Bachcha Rai*. This court taking a serious note with regard to the economic offences had observed as back as in 1987 in case of *State of Gujarat v. Mohanlal Jitmalji Porwal* as under:—

"5... The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to books. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the National Economy and National Interest...."

21. The Supreme Court in the case reported in **(2004) 7 SCC 528 (Kalyan Chandra Sarkar Vs. Rajesh Ranjan alias Pappu Yadav and another)** has held that three years incarceration would not itself entitle the accused-applicant to be released on bail nor the fact that the trial is not likelihood to be concluded in near future would be sufficient for enlarging the accused-applicant on bail considering the gravity of

offence. Paragraph-14 of the said judgment, which is relevant, is extracted hereunder:-

"14. We have already noticed from the arguments of learned counsel for the appellant that the present accused had earlier made seven applications for grant of bail which were rejected by the High Court and some such rejections have been affirmed by this Court also. It is seen from the records that when the fifth application for grant of bail was allowed by the High Court, the same was challenged before this Court and this Court accepted the said challenge by allowing the appeal filed by the Union of India and another and cancelled the bail granted by the High Court as per the order of this Court made in Criminal Appeal No. 745 of 2001 dated 25-7-2001 [Rajesh Ranjan v. State of Bihar, (2000) 9 SCC 222] . While cancelling the said bail this Court specifically held that the fact that the present accused was in custody for more than one year (at that time) and the further fact that while rejecting an earlier application, the High Court had given liberty to renew the bail application in future, were not grounds envisaged under Section 437(1)(i) of the Code. This Court also in specific terms held that the condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

22. Thus when the gravity of the offence alleged is severe, mere long incarceration in jail as under-trial is not sufficient ground to enlarge an accused on bail if the facts & circumstances of the case and interest of the society do not warrant for enlarging the accused-applicant on bail. The present is an economic offence. The economic offences are considered grave offences as they affect the economy of

the country and such offences are to be viewed seriously. In such type of offences, while granting bail, the Court has to keep in mind, inter alia, the larger interest of public and the State. The nature and seriousness of an economic offence and its impact on the society are always important considerations in such cases.

23. Thus, in view of the above stated authoritative pronouncement of law laid down by the Apex Court, considering the, prima facie involvement of the petitioner in commission of the economic offence of huge magnitude in furtherance of the criminal conspiracy, merely because of the fact that the petitioner is in custody for the last about one year and nine months, this Court does not deem it appropriate to enlarge him on bail at this stage.

24. Hence, for the reasons mentioned above, the bail application filed by the petitioner is dismissed.

25. Before parting with this order, it is hereby clarified that the aforesaid observations made in this order have been made only for the purpose of considering the present bail application. Therefore, the same shall not come in the way of the trial court at the time of the trial and the trial Court concerned shall not be influenced by the observations made hereinabove.

(Sushil Kukreja)
Judge

08th August, 2025
(raman)