CNR No: PHHC011553922024
2026:PHHC:112441

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-58678-2024 (O&M)

SUDHIR PUNIA **... Petitioner**

Versus

SERIOUS FRAUD INVESTIGATION OFFICE

...Respondent

1	The date when the judgment is reserved	07.08.2026
2	The date when the judgment is pronounced	14.08.2026
3	The date when the judgment is uploaded on the website	14.08.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment and reasons thereof.	Not applicable

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Choudhary, Advocate for the petitioner

Ms. Puneeta Sethi, Sr. Panel Counsel for UoI/SFIO

Mr. Ashok Kumar Khubbar, Addl. AG, Haryana

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MANISHA BATRA, J.

1. The instant one is the second petition for grant of regular bail as filed in case arising out of criminal complaint bearing CIS No.COMA/05/2019 titled as ***SFIO versus Adarsh Build Estate and others***, filed by the respondent under Sections 58A, 58AAA, 211(7), 227, 628, 233, 74(3), 76A, 447, 448, 147, 143, 144, 141(3)(e) of the Companies Act, 1956 **(For short '*Companies Act*')**

read with Sections 406, 417, 418, 420, 467, 468, 471, 477A, 474 and Section 120B of IPC, as pending in the Court of learned Additional Sessions Judge/Special Court, Gurugram. His previous petition bearing CRM-M-2651-2024 had been dismissed by this Court vide order dated 19.04.2024.

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 (**for short "AGCL"**) 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 accused Mukesh Modi who along with his family members and associates, was found involved. In the complaint submitted by the complainant, the present petitioner was arraigned as accused No.143. This complaint has to be considered as a report presented

under Section 173 of the Cr.P.C. (which is *pari materia* with Section 193 of BNSS), 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 under the Companies Act, the petitioner was summoned under Sections 58A, 74(3), 147, 211(7), 227, 447 read with Section 448, 628 and 477A of the Companies Act, whereas process was issued against the other individual accused and companies arraigned as accused for commission of offences punishable under different provisions of IPC as well as the Companies Act. The petitioner who was amongst the Directors of 06 CUIs belonging to AGCL, was alleged to have provided accommodation entries in furtherance of conspiracy to siphon off the funds from 30 CUIs of AGCL group. These companies had secured illegal loans from ACCSL. It was also revealed that ACCSL had collected funds to the tune of crores of rupees on deposit from its members and in connivance with the co-accused, the petitioner had arranged for accommodation entries and used the corporate identities of the companies to perpetuate cheating. The petitioner failed to appear before the special court, on process being issued. He was declared a proclaimed person vide order dated 27.07.2022. He moved a petition for setting aside that order which was dismissed by this Court. He had surrendered on 07.11.2023. He was extended benefit of interim bail vide order dated 18.10.2025 on account of his medical condition, which stands extended till date.

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4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. Though he was one of the Directors in 06 subsidiary Companies, however, he neither participated nor he was privy to any conspiracy or misappropriation of funds. His involvement was solely as a broker and he performed his part as a broker by arranging land to acquire for the projects of the companies. He had joined investigation conducted by SFIO several times during investigation and on this very ground was entitled to be given benefit of bail under Section 91 of BNSS. He had no share in any of the companies nor he was a beneficiary or authorized signatory. He had no role in procuring the loans. The co-accused Priyanka Modi, Vivek Harivyasi, Vijay Shukla, Surender Singh, Jainam Rathod, Vaibhav Lodha, Rohit Modi, Peeyush Aggarwal, Deepak Shrimali, Abhay Shah and Rajeev Kumar Rana have been extended benefit of bail. It is also argued that there are no allegations pertaining to falsification of account by him. No specific incriminating material has been collected against him. The charges against him are based on conjectures which are unsupported by any substantive proof. He was taken into custody on 07.11.2023 and was released on interim bail vide order dated 18.10.2025. Investigation has completed. The trial will take considerable time to conclude as even charges have not been framed so far. He cannot be kept in custody for indefinite period. His previous petition had been dismissed by this Court about a period of more than 02 years back. He has spent almost two years in custody. 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 Idopathic Thrombocytopenic Purpura (ITP) which is a severe and debilitating autoimmune disorder and has critically impacted his health. He is also suffering from several other ailments and requires regular medical intervention which cannot be provided in jail. The proviso to Sub-Section 6 of Section 212 of Companies Act is attracted qua him. His antecedents are clean. He has not misused the concession of interim bail granted to him and has been regularly attending the Trial Court. With these broad submissions, it is urged that he deserves to be released on bail.

5. Per contra, learned Senior Panel Counsel for the respondent has argued that the petition is not maintainable as the same is a second petition seeking regular bail. His first petition had been dismissed by passing a detailed order. There is no material change in the circumstances. The petitioner avoided his arrest. He was even declared a proclaimed person 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.

6. 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 coaccused. 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.

7. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

8. 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 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, the above arguments of the petitioner cannot be stated to be of any force.

9. The petitioner has been summoned for commission of offences punishable under different provisions of the Companies Act including Section 447, which is punishable to imprisonment up to 10 years and which is an economic offence. It is well settled that economic offences constitute a class apart and need to be visited in a different approach in the matter of bail. 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 posing serious threat to the financial health of country. It is also well settled that while granting bail in such cases, the Court is to keep in mind the nature of the accusations, the nature of evidence in support thereof, the severity of the punishment which the conviction will entail, the character of the accused, the circumstances which are peculiar to the case, reasonable possibility of securing the presence of the accused at the trial, and larger interest of public/State and other similar considerations. Reference in this regard can be made to the observations given by Hon'ble Supreme Court in ***Y.S. Jagan Mohan Reddy vs. Central Bureau of Investigation, 2013 (3) RCR (Criminal) 108 SC*** and ***Nimmagadda Prasad v. Central Bureau of Investigation, 2013(3) RCR (Criminal) 175 (SC).***

10. It will now be relevant to refer to the provisions of Section 212 of the Companies Act, which provide a procedure for conducting investigation by SFIO on the orders of the 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 the 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 the offence and that he is not likely to commit any offence while on bail, subject to further conditions.

11. 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.

12. The petitioner in this case was one of the directors in six CUIs managed/controlled by AGCL. 70 of the CUIs of AGCL are alleged to have secured loans from ACCL to the tune of several crores of rupees in fraudulent and illegal manner. As per the allegations, Fraction Technological Private Limited, which was one of the aforementioned 70 CUIs of AGCL, and had obtained loan to the tune of Rs.41.75 crores from ACCL during the period when the petitioner was one of its directors. This company had accepted deposits in contravention of applicable provisions/rules under the Companies Act. These deposits remained unpaid. The default committed by the aforementioned company and its Directors, including the petitioner, amounted to commission of offences punishable under different provisions of Companies Act. It is also alleged that the petitioner, in the capacity of Director of Fraction Technology Private Limited, had also signed and filed financial statements of the company during the financial years 2011–12 to 2015–16, which were false in material particulars. The twin conditions of Section 212(6) are *prima facie* attracted as against the petitioner. At this stage, this Court is not required to record any specific finding that the petitioner had committed the subject offences or not. On the basis of material collected by the respondent and as per the allegations as levelled in the complaint, there are reasonable grounds for believing the commission of subject offences by the petitioner. Undoubtedly, as per proviso to Section 212(6) of the Companies Act, the twin conditions can be waived off in case of a sick or infirm person. One of the grounds as taken by the petitioner

is his health condition. It will be relevant to mention here that the petitioner was suffering from some ailments. Taking into his health condition, he was extended benefit of interim bail vide order dated 17.10.2025 as passed by this Court, and ever since then, the said period is being extended. A Medical Board was also constituted, and as per the report of the Board, the petitioner was suffering from bronchial asthma, coronary artery disease, stroke/transient ischemic attack, and anaemia**.** Learned counsel for the petitioner has placed on record copies of prescriptions issued by Abhinav Balaji Super Speciality Hospital, Sahibabad, Ghaziabad (U.P.), showing that he is still under treatment. However, at this stage, there is no material on record to prove that his health condition is alarming even as on date. The instant one is the second petition for grant of bail, filed mainly on the ground of prolonged incarceration. At the cost of repetition, it may be mentioned that the petitioner has been on interim bail since 18.10.2025. It is also apparent that the trial is likely to take time to conclude since even charge has not been framed so far. However, the petitioner has been summoned under Section 447 of the Companies Act, which is a serious offence inviting punishment of imprisonment up to 10 years. The allegations against him are specific and serious in nature. He has failed to show any substantial and drastic change in the circumstances ever since the date of dismissal of his previous petition. Merely on the ground that he has undergone incarceration of a period of 01 year and 11 months, he does not deserve to be extended benefit of bail.

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13. As an upshot of the discussion made above, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed. The petitioner, who is on interim bail, is directed to surrender before the learned Trial Court within a period of 15 days from today. The Trial Court is also directed to expedite the proceedings by making all possible efforts, which may include separation of trial against the accused whose presence has not been secured so far.

14. It is also 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.

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

(MANISHA BATRA)
JUDGE

14.08.2026 **Whether speaking/reasoned:- Yes/No**
Amit Sharma **Whether reportable:- Yes/No**