

'Deposit' under Section 2(4) of the Banning of Unregulated Deposit Schemes Act, 2019, is not confined to transactions involving physical currency but extends to arrangements clothed as sales of commodities like digital gold; Absence of express regulation by SEBI/ RBI over purchase or storage of digital gold does not confer it sanctuary

The Karnataka High Court in the case of **Nishchay Babu Arkalgud vs State of Karnataka [Writ Petition No.5968 of 2026 (GM - RES)] dated March 04, 2026**, has held that the definition of 'deposit' under Section 2(4) of the Banning of Unregulated Deposit Schemes Act, 2019, is to be interpreted expansively and purposively. It is not confined to transactions involving physical currency but extends to arrangements clothed as sales of commodities like digital gold, where the intrinsic character and economic substance of the transaction resemble a deposit scheme designed to circumvent regulatory oversight.

The High Court said that its inherent power to quash an FIR under Section 528 of the BNSS should not be exercised when the case involves serious and triable allegations, sharply contested questions of fact, and requires a thorough investigation. Essentially, an FIR is only a trigger for investigation, and the court should not stifle a legitimate inquiry by delving into the merits of the evidence at a preliminary stage.

The Court observed that rejected the petitioners' primary contention that their business involves the sale of gold and does not constitute a 'deposit' under Section 2(4) of the Banning of Unregulated Deposit Schemes Act, 2019 (BUDS Act), noting that the definition of the term 'deposit' is expansive. It added that the argument to construe the statute narrowly to exclude digital or gold-backed arrangements must be repelled.

Further, the Court emphasized that the law is concerned with the 'intrinsic character and its economic substance of a transaction, not the 'cosmetic garb' it is clothed in. Further, in the modern landscape of financial frauds, deception assumes subtle forms like commodities and digital assets to circumvent regulatory vigilance.

The Court also addressed the petitioners' submission that the transactions are in gold, not currency or cash, and opined that confining the expression 'money' to only physical currency would be a pedantic and myopic construction. Such a narrow interpretation would render the BUDS Act, a remedial and protective legislation, ineffective against evolving financial stratagems and would defeat the very purpose for which it was enacted.

Further, the Court observed that it must refrain from appreciating disputed facts or evaluating the probative worth of material at the investigation stage. It noted that an FIR is not an encyclopaedia of all facts and that the police must be permitted to complete the investigation, especially when the allegations disclose serious and triable issues.

Also, the Court noted that serious allegations have surfaced, including assertions that physical gold could not be traced when demanded by customers, and that searches allegedly yielded gold with the Company's branding at the premises of its office bearers. Given these sharply contested questions of fact, the Court found that it could not lend its protective hands to the

petitioners to obliterate the crime at its incipient stage. It concluded that an investigation is imperative as investors have already raised concerns about not receiving their gold or money.