



\$~78

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010170142026
+ **BAIL APPLN. 1568/2026**

ANIL MITHAS

.....Petitioner

Through: Mr. Vishal Goasin, Sr. Adv. with Mr.
Pranav Das, Mr. Tushar Sharma, Mr.
Devan Kumar, Mr. Akhilesh Singh,
Mr. Suyash Sinha and Mr. Vatsal
Dhar, Advs.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP
SI Mahabir Prasad and SI Sushil, PS
EOW

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

ORDER
07.08.2026

%

1. This hearing has been done through hybrid mode.
2. Due to a typographical error in the order dated 06.08.2026, the next date of hearing has been wrongly recorded as 07.09.2026 instead of 07.08.2026. The date be read as 07.08.2026 instead of 07.09.2026 in order dated 06.08.2026.
3. The present application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS') seeking grant of regular bail in connection with **FIR No. 172/2021** dated 12.11.2021, registered at Police Station Economic Offences Wing, Delhi, under Sections 406, 409, 420 and 120B of the Indian Penal Code, 1860



(hereinafter referred to as 'IPC').

4. The present **FIR No. 172/2021** was registered by the Economic Offences Wing, Delhi on the complaint of ICICI Bank alleging diversion and misuse of credit facilities availed by M/s Unnati Fortune Holdings Ltd. (UFHL).

5. The Applicant is an erstwhile director and shareholder of M/s UFHL. He had resigned from the Directorship on 08.02.2014 while continuing only as a shareholder.

6. The prosecution case pertains to four credit facilities sanctioned by ICICI Bank in 2016–2017, comprising two Rupee Term Loans and two Overdraft Limits aggregating to ₹165 crores, which were sanctioned for completion of the Aranya Housing Project, Noida and the Alder Grove/Uniworld Resorts villa projects in Gurgaon. The allegations stem primarily from a transaction audit report prepared by BDO India LLP during the Corporate Insolvency Resolution Process (CIRP) of UFHL, pursuant to which ICICI Bank lodged the complaint leading to registration of the present FIR.

7. The Applicant was arrested on 08.05.2025 and has remained in judicial custody since then. The chargesheet has been filed on 31.07.2025, pursuant to which cognizance has been taken by the learned Trial Court. However, the prosecution states that the investigation is continuing with regard to the role of the remaining accused persons, diversion and siphoning of funds, and the money trail, and that a supplementary chargesheet is proposed to be filed.

8. The learned senior counsel on the behalf of the applicant submits that the allegations are purely commercial in nature, arising out of failed real estate projects and subsequent insolvency proceedings. The material placed on



record demonstrates that the loan amounts were utilized for construction of the respective projects, substantial construction had been completed, and the alleged defaults were attributable to commercial and contractual disputes, including defaults by third parties, rather than any dishonest or fraudulent intent on the part of the Applicant.

9. Learned Senior Counsel for the applicant submits that the credit facilities availed by *M/s Unnati Fortune Holdings Ltd. (UFHL)* from ICICI Bank were utilized strictly for the purposes for which they were sanctioned, namely, the construction of the ‘Alder Grove’, ‘Uni-World Resorts’ and ‘Aranya’ projects.

10. He submits that the default in repayment of the Overdraft Limit (ODL-1) was occasioned solely due to the failure of *M/s Unitech Ltd.* and ICICI Bank to fulfil their contractual obligations, and no criminal liability can be attributed to the applicant.

11. He further submits that the repayment default in respect of RTL-1, RTL-2 and ODL-2 was the result of various extraneous commercial circumstances beyond the control of the applicant, including financial and regulatory impediments affecting the projects.

12. Learned Senior Counsel for petitioner further submits that the complainant bank is a fully secured creditor, the credit facilities being backed by mortgage of approximately 32 lakh sq. ft. of the project land. It is submitted that even assuming there was a default in repayment, the same would constitute a civil and commercial in nature arising out of contractual transactions and insolvency proceedings, and the essential ingredients of the offences under Sections 406, 409 and 420 IPC are not made out.

13. Learned Senior Counsel submits that the alleged suspicious



transactions relied upon by the prosecution are based solely on the transaction audit report prepared during the Corporate Insolvency Resolution Process and, except for one transaction, all such transactions pertain to a period prior to the sanction of the credit facilities by ICICI Bank in 2016–2017. It is, therefore, contended that the complainant bank cannot claim to have been induced or prejudiced by transactions which pre-date the loan facilities.

14. It is submitted that the prosecution's allegation regarding payment of salary to non-employees stands falsified by the charge-sheet itself, wherein the investigating agency has verified the employment of the concerned individuals through appointment letters and other records

15. It is further submitted that there is no material to show that the applicant had any fraudulent or dishonest intention at the inception while availing the credit facilities. The FIR and the complaint do not disclose any intentional deception, false representation or dishonest inducement so as to constitute an offence under Section 420 IPC.

16. He also submits that the allegations do not satisfy the ingredients of criminal breach of trust under Sections 405 and 406 IPC, as there is no allegation or material to establish dishonest misappropriation or conversion of any entrusted property by the applicant.

17. It is lastly submitted that the investigation stands concluded *qua* the applicant, the charge-sheet has already been filed, the applicant has been in judicial custody since 08.05.2025, and no useful purpose would be served by his continued incarceration.

18. Learned Senior Counsel for the applicant has placed reliance upon the following cases: ***Union of India v. K.A. Najeeb, (2021) 3 SCC 713; Neeraj Singhal v. Directorate of Enforcement, SLP (Crl.) Nos. 8439–8440 of 2024;***



Vijay Nair v. Directorate of Enforcement, SLP (Crl.) Diary No. 22137 of 2024, decided on 02.09.2024; ***Kalvakuntla Kavitha v. Directorate of Enforcement, 2024 INSC 632***, ***Prem Prakash v. Union of India, 2024 INSC 637***; ***Manish Sisodia v. Directorate of Enforcement, 2024 INSC 595***, and ***V. Senthil Balaji v. The Deputy Director, Directorate of Enforcement, Criminal Appeal 2024 INSC 739***.

19. *Per contra*, learned APP for the State opposes the present bail application and, while referring to the Status Report, submits that the investigation has unearthed sufficient material demonstrating the applicant's involvement in diversion and siphoning of the loan funds obtained from the complainant bank.

20. He submits that the Independent Auditor's Report, duly corroborated by the ledger accounts, books of account and records furnished by the Interim Resolution Professional (IRP), reveals that substantial loan amounts were diverted to related entities through investments in equity shares, preference shares and Compulsorily Convertible Debentures (CCDs) in violation of the terms of the loan agreements.

21. It is further submitted that investments of approximately ₹38.34 crores were made on commercially unjustifiable terms, without valuation and at exorbitant share premiums, rendering the amounts irrecoverable. He further submits that the investigation has also disclosed repayment of approximately ₹89 lakhs to the applicant, including about ₹33 lakhs from the RERA-designated account of the 'Aranya' project, which *prima facie* establishes siphoning and misappropriation of the borrowed funds for the benefit of related parties. It is, therefore, submitted that the allegations are grave in nature and the applicant does not deserve the concession of bail.



22. This court has heard the learned Senior Counsel for the applicant, learned APP for the State and have perused the record and cases relied upon by the parties.

23. The principal submission of the applicant is that the dispute arises out of commercial transactions and the subsequent Corporate Insolvency Resolution Process of M/s Unnati Fortune Holdings Ltd. and that the complainant bank continues to be adequately secured by mortgage of the project, that several of the transactions relied upon by the prosecution pre-date the sanction of the credit facilities, that the applicant had resigned from the Directorship much prior to sanction of the loans and that the allegations, even if accepted at face value, do not constitute offences under Sections 406, 409 or 420 IPC. It is further submitted that the investigation *qua* the applicant stands concluded, the charge-sheet has been filed and the continued incarceration of the applicant is unwarranted.

24. The submissions of the learned senior counsel does not persuade this Court to grant the relief of regular bail. The allegations against the applicant pertain to fraudulent procurement and subsequent diversion of credit facilities aggregating to approximately ₹165 crores sanctioned by the complainant bank to M/s Unnati Fortune Holdings Ltd.

25. The material collected during investigation, as reflected in the charge-sheet and the status report, *prima facie* indicates that, at the time the credit facilities were availed from the complainant bank, a part of the project had already been mortgaged to another financial institution. It is further alleged that loan funds were diverted to related entities through investments in equity shares, preference shares and compulsorily convertible debentures; advances were extended to shell/struck-off entities and an amount of approximately



₹28.30 crores transferred to a related concern as a refundable security deposit subsequently became irrecoverable.

26. The prosecution also alleges that repayments of about ₹89 lakhs, including nearly ₹33 lakhs from the RERA-designated account of the 'Aranya' project, were made to the applicant. According to the prosecution, these allegations are supported by the forensic audit report and the financial records collected during the investigation.

27. The applicant has emphasised that he had ceased to be a Director prior to sanction of the credit facilities. However, the prosecution alleges that notwithstanding such resignation, he remained the majority shareholder, the person authorised to correspond with the lending bank and the individual exercising effective managerial control over the affairs of the company. The charge-sheet attributes him the role of being the controlling person behind the transactions forming the subject matter of the present FIR. Whether these allegations ultimately stand proved is a matter for trial. However, at this stage they cannot be brushed aside as inherently improbable.

28. Considerable emphasis has also been placed by the learned Senior Counsel upon the fact that the investigation stands concluded and the charge-sheet has been filed. Filing of the charge-sheet does not, by itself, entitle an accused to bail. The record indicates that although cognizance has been taken, the investigation continues with regard to the role of the remaining accused persons, the money trail and the alleged diversion and siphoning of funds, and the prosecution proposes to file a supplementary charge-sheet.

29. It is well settled that economic offences constitute a class apart and the courts are required to adopt a stricter approach while considering bail particularly where the offence involves a multi-victim fraud affecting the



public at large and serious financial irregularities. The gravity of the offence, the manner of its execution, the amount involved, and its impact on society are all relevant considerations. The Supreme Court in the case of ***Rakesh Mittal v. Ajay Pal Gupta @ Sonu Chaudhary***, 2026 INSC 161 has observed as under:

“Though the observations made in some of the above cases were in the context of heinous offences, which is not the case presently, we may note that the value of life and liberty of members of society is not limited only to their ‘person’ but would also extend to the quality of their life, including their economic well-being. In offences of a pecuniary nature, where innocent people are cheated of their hard-earned monies by connen, who make it their life's pursuit to exploit and feast upon the gullibility of others, the aforesaid factors must necessarily be weighed while dealing with the alleged offenders' pleas for grant of bail.”

30. The allegations in the present case relate to a large-scale economic offence involving substantial public funds advanced by a scheduled commercial bank. Such offences, if established, have ramifications extending beyond the immediate parties to the transaction, as they undermine the integrity of the banking system and erode public confidence in financial institutions. The seriousness of the allegations and their potential impact on the financial system are, therefore, relevant considerations while examining a prayer for bail.

31. Having regard to the overall facts and circumstances of the case, the gravity and nature of the allegations, the magnitude of the alleged economic offence, and the *prima facie* material collected during investigation, and



further as the petitioner has fifteen more cases of similar nature pending against him, this Court is of the considered view that no case for grant of regular bail is made out at this stage.

32. Accordingly, the present bail application is dismissed. Pending application (s), if any, also stands disposed of in aforesaid terms.

33. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

AUGUST 7, 2026/SD/RM/P