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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010283962026

+ **BAIL APPLN. 2519/2026**

MAHENDER SHARMA

.....Petitioner

Through: Ms. Samridhi Dobhal, Mr. Hritik
Maurya and Ms. Lisa Pegwal, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State.
SI Amit Kumar, SI Shankar, PS:
Dwarka South and SI Dharavir, PS:
Dabri.
Mr. Anand Nandan and Mr. Kuldeep
Mishra, Advocates for the
complainant.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

ORDER

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31.08.2026

1. By way of the present application filed under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant, Mahender Sharma, seeks regular bail in connection with FIR No. 60/2019, dated 28.01.2019, registered at Police Station Dabri, Delhi, for offences punishable under Sections 420/406/34 of the Indian Penal Code, 1860.
2. The present application impugns the order dated 30.03.2026 passed



by the Additional Sessions Judge (SFTC), South West District, Dwarka Courts, New Delhi in Bail Application No. 512/2026, titled ***State v. Mahender Kumar Sharma & Anr.***, whereby the applicant's bail was dismissed, on the ground of him having remained untraceable between 18.08.2018 and his eventual arrest on 15.12.2025, and on the ground of the gravity of the offence alleged.

3. The prosecution's case, as reflected in the FIR and the status report, is that the applicant and his wife, Sushma Sharma, who ran proprietorship concerns styled Shree Shyam Ji Traders and Sita Ram Ji Traders, respectively, induced the complainant, Umesh Sirohi, to join their FMCG business dealing in milk and milk products as an equal partner. On the strength of a Partnership Deed and an MoU executed in the year 2017, the complainant mortgaged a property standing in the name of his wife, Smt. Monika Sirohi, with UCO Bank, pursuant to which a Cash Credit Limit of about Rs. 1.30 crores was sanctioned in favour of the accused persons' firms.

4. It is alleged that the applicant and his wife withdrew the said limit, sold off the business stock and vacated their Dabri premises without notice, and remained untraceable from 18.08.2018 onwards, leading to the filing of an untraced chargesheet on 29.06.2022. The applicant was eventually traced and arrested from his residence at Murlipura, Jaipur, Rajasthan, on 15.12.2025. Chargesheet came to be filed on 12.02.2026, and the applicant has, accordingly, been in judicial custody for a period of about nine months.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in what is, in substance, a commercial dispute arising out of a partnership arrangement gone awry. It is submitted that the applicant did not evade the process of law; he continued



to reside openly at his known and Aadhaar-registered address in Rajasthan, from where he was ultimately arrested, and no coercive process under Section 41-A of the Code of Criminal Procedure, or by way of a bailable/non-bailable warrant or proclamation under Sections 82/83 of the Code, was ever taken out against him prior to the filing of the untraced chargesheet.

6. It is further submitted that the complainant himself did not meaningfully pursue the investigation for a considerable period and has, in the meanwhile, settled abroad, which circumstance materially contributed to the protracted nature of the investigation between 2019 and 2025. Learned counsel accordingly submits that the delay occasioned in the investigation, and the consequent delay in the applicant's own apprehension, cannot be attributed to any deliberate conduct on the part of the applicant.

7. It is further submitted, that the investigation stands completed and the chargesheet has been filed. The applicant is, therefore, no longer required for custodial interrogation. Learned counsel submits that the entirety of the prosecution's case rests on documentary material, including bank records, the partnership deed and the MoU, which already stand collected, and there is accordingly no apprehension that the applicant, if released, would be in a position to influence or tamper with such evidence.

8. The submissions made on behalf of the applicant are opposed by Mr. Mukesh Kumar, learned APP for the State, and by Mr. Anand Nandan, learned counsel appearing for the complainant. Mr. Mukesh Kumar submits that the allegations are serious in nature, inasmuch as crores of rupees stand siphoned off by the applicant and his wife, that the applicant and his wife remained absconding for a period of about six years, and that this conduct is



itself demonstrative of their intention to evade the process of law. Similar submissions are advanced by Mr. Anand Nandan, learned counsel for the complainant, who further submits that the applicant had misused the cash credit limit, which had been opened by placing the property of the complainant's wife as collateral security, and that the cheated amount is yet to be recovered.

9. I have considered the submissions made by learned counsel appearing for the parties and have perused the record.

10. This Court, *vide* order dated 15.05.2026 passed in Bail Appln. 1501/2026, titled ***Sushma Sharma v. State (NCT of Delhi)***, has already granted regular bail to the co-accused, namely, Sushma Sharma, who happens to be the wife of the present applicant and who stands implicated in the very same FIR arising out of the very same transaction. The material relied upon by the prosecution against both the accused persons is , almost identical. While granting bail to the co-accused, this Court had, *inter alia*, taken into account the following considerations:-

- “20.1. The petitioner is a lady of about 46 years of age, with 02 children;*
- 20.2. The petitioner has been implicated in the matter essentially in her capacity as sole proprietor of M/s Sitaram Ji Traders, which is one of the proprietorship concerns which is alleged to have received money through the cash-credit limit opened by providing the property of the complainant's wife as collateral.*
- 20.3. Chargesheet dated 12.02.2026 has been filed against the petitioner.*
- 20.4. Considering the nature of the allegations, the evidence would essentially be documentary in nature, which has already been collected;*
- 20.5. The FIR dates back to 28.01.2019; and chargesheet dated 12.02.2026 has been filed after more than 07 years of investigation;*
- 20.6. Though the prosecution has cited 14 witnesses, but the charges are yet to be framed; and trial is yet to begin;*
- 20.7. The petitioner, being a lady, has already suffered judicial custody of more than 04 months as an undertrial; and*



20.8. The complainant's apprehension that the petitioner would tamper with evidence seems misplaced."

11. The role attributed to the applicant in the FIR, the status report, and the chargesheet is, in substance, no different from the role attributed to his wife, save that the applicant ran the concern styled Shree Shyam Ji Traders whereas his wife ran Sita Ram Ji Traders. Both firms being party to the very same partnership arrangement with the complainant, and both accounts having received disbursements out of the very same Cash Credit Limit. It is no doubt correct, as urged by learned counsel for the complainant, that the plea taken on behalf of the wife of the applicant, that she was a dummy signatory acting at the instance of the applicant, would, if accepted, cast the applicant in a more culpable light *vis-a-vis* his wife. However, this Court is not, at the stage of bail, called upon to render a finding on this question, it shall necessarily remain a matter for determination at trial.

12. The principle of parity is not to be applied mechanically, and it remains for the court to satisfy itself, upon a comparison of the role, culpability, and attendant circumstances, that the applicant is indeed similarly placed to the co-accused who has already been enlarged on bail. The Supreme Court, in ***Neeru Yadav v. State of U.P.***,¹ while cautioning against a mechanical application of parity, has held:

"17. Coming to the case at hand, it is found that when a stand was taken that the 2nd Respondent was a history-sheeter, it was imperative on the part of the High Court to scrutinize every aspect and not capriciously record that the 2nd Respondent is entitled to be admitted to bail on the ground of parity."

13. Unlike the co-accused in ***Neeru Yadav*** (supra), there is nothing on the record of the present case to suggest that the applicant carries



antecedents, or that any distinguishing factor exists which would take him out of the parity extended to his wife. The factors that weighed with this Court while granting bail to the co-accused, completion of investigation, the essentially documentary nature of the evidence, the protracted period between registration of the FIR and filing of the chargesheet, and the absence of any real apprehension of evidence-tampering, apply with equal force to the case of the applicant. In these circumstances, the applicant is found to be similarly placed to the co-accused, and is entitled to parity.

14. Insofar as the length of incarceration is concerned, the applicant has, as on date, remained in judicial custody for a period of about nine months, while the trial itself is yet to commence and charges are yet to be framed. It is also relevant that the FIR, though registered in the year 2019, came to be pursued to its logical conclusion only after several years. A delay to which the applicant's own conduct is not shown to have contributed in any manner beyond his relocation to his native place, and to which, on the contrary, the record indicates that the complainant's own limited availability to the investigation was equally a contributing circumstance.

15. The Supreme Court, in **Sanjay Chandra v. CBI**,² while dealing with an analogous situation of undertrial detention in an economic offence, and after advertent to its earlier decision in **State of Kerala v. Raneef**,³ held:

“15. In deciding bail applications an important factor which should certainly be taken into consideration by the court is the delay in concluding the trial. Often this takes several years, and if the accused is denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody?”

¹(2014) 16 SCC 508.

²(2012) 1 SCC 40.

³(2011) 1 SCC 784.



16. The Supreme Court, in **Union of India v. K.A. Najeed**,⁴ while considering the effect of prolonged incarceration on the right to a speedy trial guaranteed under Article 21 of the Constitution, has held, in paragraph 17, that:

“17. ...Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail.”

17. In the present case, though nine months of custody may not, by itself, be characterised as inordinate. It is a circumstance that has to be weighed cumulatively with the completion of investigation, the essentially documentary character of the evidence, and the parity already extended to the similarly placed co-accused, rather than viewed in isolation.

18. Insofar as the ground of completion of investigation is concerned, the Supreme Court in **Sanjay Chandra** (supra) has further held:

“...We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge... Therefore, their presence in the custody may not be necessary for further investigation.”

19. It has come on record that the chargesheet in the present matter was filed on 12.02.2026, that the case rests essentially on documentary material, i.e., bank statements, the partnership deed and the MoU, which stands already collected and placed on the record, and that charges are yet to be framed. There is, accordingly, no requirement of custodial interrogation of the applicant, nor is there any real apprehension, on the material placed before this Court, that the applicant, if enlarged on bail, would be in a

⁴(2021) 3 SCC 713.



position to interfere with or otherwise adversely affect the prosecution's case. Though learned counsel for the complainant submits that similar complaints stand lodged against the applicant, it remains undisputed that no other FIR stands registered against him, and this factor cannot, by itself, be a ground to deny bail.

20. For all those reasons, the Court deems it appropriate to direct the applicant to be released on regular bail subject to such terms and conditions as may be imposed by the concerned Trial Court.

21. The application stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 31, 2026/p/nk