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

\+ BAIL APPLN. 1884/2018

ANKIT GUPTA ..... Petitioner

Represented by: Mr. Manoj Kumar Ohri, Senior Advocate with Mr. Manu Sharma, Mr. Abbir Dutt, Mr. Kartik Khanna and Mr. Nausab Singh Jaylan, Advocates.

versus

STATE (NCT OF DELHI) ..... Respondent

Represented by: Ms. Meenakshi Chauhan, APP with Insp. Ajeet Kumar Jha, PS EOW.

**CORAM:**
**HON'BLE MS. JUSTICE MUKTA GUPTA**

**O R D E R**

% **08.10.2018**

1. By this petition, the petitioner seeks bail in case FIR No. 173/2015 under Sections 409/420/120B IPC registered at PS EOW.

2. Learned counsel for the petitioner states that the petitioner has been in custody since 24th October, 2017 and till date successive charge sheets are being filed and no charge has been framed. Even in the last charge sheet people who have graver role than the petitioner have not been arrested and charge sheet has been filed against them without arrest. Further the petitioner was the Director of M/s AMR Infrastructure Pvt. Ltd. (the Company) in the years 2008-2016 whereas as per the charge sheet itself the initial luring of the investors was in the year 2006 when the petitioner was not its Director and was not concerned whatsoever with the company.

3. Learned counsel for the petitioner further submits that to show his

bona fides the petitioner is willing to deposit ₹10 crore with the Registrar General of this Court which may be kept in fixed deposit without prejudice to his rights and contention out of which ₹3 crores will be deposited immediately and for the balance amount the petitioner would need some more time.

4. Learned APP for the State on the other hand contends that in the above noted FIR the allegations are that the Directors of the company had lured investors and out of the total 3203 investors, 510 complaints have been received. Besides the petitioner other Directors, namely, Ram Chander Soni and Krishan Kumar are also in custody.

5. Share holding of the company as on 31st March, 2015 as mentioned in the charge sheet as prepared by Chartered Accountant is as under:-

| S.No. | Name of share holders | % holding | Number of Equity Shares | Amount |
|---|---|---|---|---|
| 1. | Usha Gupta | 12.5% | 1,50,000 | 1,50,000 |
| 2. | Naveen Soni | 12.5% | 1,50,000 | 1,50,000 |
| 3. | Krishan Kumar | 12.5% | 1,50,000 | 1,50,000 |
| 4. | Ashish Gupta | 12.5% | 1,50,000 | 1,50,000 |
| 5. | Prashant Soni | 12.5% | 1,50,000 | 1,50,000 |
| 6. | Ankit Gupta | 12.5% | 1,50,000 | 1,50,000 |
| 7. | Ram Chander Soni | 12.5% | 1,50,000 | 1,50,000 |
| 8. | Arun Kumar Soni | 12.5% | 1,50,000 | 1,50,000 |
| total | | 100% | 12,00,000 | 12,00,000 |

6. From the above share holdings it is apparent that fifty percent of the

share holding is with the Soni family, namely, Naveen Soni, Prashant Soni, Ram Chander Soni and Arun Kumar Soni. Krishan Kumar, Ankit Gupta and Ram Chander Soni, the directors of the company have been arrested.

7. As per the first supplementary charge sheet the petitioner Ankit Gupta became the Director of the said company only after the demise of his father late Manoj Gupta and joined the company on 5th June, 2008 and remained Director till 28th March, 2016. The supplementary charge sheet on page 3 itself notes that the general public was lured by its Director in the year 2006 with the assurance of timely possession till 2009 and assured return of 12 percent of the investment to investors.

8. On this allurement the company collected approximately ₹543 crores from more than 3000 investors. The company got the building plan sanction on 25th September, 2008, environment clearance in March, 2009 and pollution clearance in 2010, however, bookings of the Adventure mall were taken without the requisite permissions of Greater Noida Industrial Development Authority (GNIDA), the permission of which was turned down by GNIDA in the year 2013 and the company failed to return the amount to the various investors.

9. In the second supplementary charge sheet the case of the investigating agency is that five Directors of the company, namely, Arun Kumar Soni, Prashant Soni, Naveen Soni, Ashish Gupta (proclaimed offender) and Kapil Kumar (proclaimed offender) remained associated with entire policy of the company and during their period huge amounts were received from the general public without proper sanction of GNIDA. They were also involved in the siphoning off the funds of the investors, however, admittedly till date Arun Kumar Soni, Prashant Soni, Naveen Soni have not been arrested.

10. On a query put by this Court to the Investigating Officer as to why they were not arrested. The reply is that since they were Directors for a lesser period of time they were not arrested. Admittedly, Arun Kumar Soni, Prashant Soni, and Naveen Soni were Director of the company from the year 2006 to 2011 and till date are 12.5 percent share holders as is the petitioner.

11. Considering the facts noted above and that the petitioner has been in custody for nearly one year and is willing to show his bona fide by depositing 1/8$^{th}$ share of alleged siphoned amount which according to the status report till date is around 100 crores, this Court deems it fit to grant bail to the petitioner.

12. It is, therefore, directed that the petitioner be released on bail on his furnishing a personal bond in the sum of ₹1 lakh with one surety bond of the like amount subject to the satisfaction of the learned Trial Court, further subject to the condition that the petitioner will not leave the country without prior permission of the Court concerned and in case of change of residential address the same will be intimated to the Court concerned by way of an affidavit. As undertaken the petitioner will deposit a sum of ₹3 crores with the Registrar General of this Court on or before the 1$^{st}$ November, 2018 and thereafter the balance amount of ₹7 crore will be deposited in the form of ₹1 crore per month with first instalment on or before 1$^{st}$ of December and thereafter on or before 1$^{st}$ of every month before the Registrar General of this Court. The amount so deposited will be kept by the Registrar General in a fixed deposit.

13. In case the amount of ₹10 crores is not deposited till 1$^{st}$ June, 2019 as per the scheduled mentioned the bail granted to the petitioner would stand cancelled automatically.

14. Petition is disposed of.

15. Order dasti.

**MUKTA GUPTA, J.**

**OCTOBER 08, 2018**
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