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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 29th November, 2023*+ **BAIL APPLN. 2539/2023, CRL.M.A. 20203/2023 (Ex. from filing lengthy synopsis)****TRIKKUR VENKATACHALAM
RADHAKRISHNAN**

..... Petitioner

Through: Ms.Mukti Singh and Mr.Sunil Kr.
Singh, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Ms.Shubhi Gupta, APP for the State.
SI Ravinder Singh, PS Crime Branch.
Mr.Tanveer Ahmed Mir and
Mr.Arjun Syal, Advocates for
respondent no.2/ complainant.**CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL****JUDGMENT****AMIT BANSAL, J. (ORAL)****BAIL APPLN. 2539/2023**

1. The present application has been filed seeking grant of bail in FIR No. 295/2022 dated 24th December, 2022 under Sections 408/409/420/467/468/471/120B of the Indian Penal Code, 1860 (IPC) registered at Police Station Crime Branch.

2. The case set up by the prosecution is as under: -

I. The present FIR arose from a fraudulent transfer of property bearing

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- no. 12C, New Friends Colony (West) by the complainant/ respondent no.2, who has since expired, in favour of the main-accused, one Mr. Awaneesh Chandra Jha (hereinafter the main-accused).
- II. The ownership of the said property vested with the company Joint Investment Private Limited (JIPL), in which the respondent no. 2 held majority shares, to the tune of 8200 shares.
- III. The main-accused was introduced to the respondent no. 2 by the applicant. The applicant was in the employment of the respondent no. 2 for a period of 30 years till 2017 and later joined the employment of the main-accused from 1st May, 2022.
- IV. The allegation qua the applicant is that he facilitated the illegal transfer of property by obtaining the digital signatures of the respondent no.2 and handing it over to the main-accused which was then used by the main-accused to transfer 8200 shares of JIPL in his favour.
3. Learned counsel appearing for the applicant submits that the applicant left the employment of the respondent no. 2 way back in 2017. Hence, he had no access to the digital signature of the respondent no. 2. Therefore, offences under Sections 408/409 of the IPC cannot be made out.
4. It is stated that in the present FIR, the Chargesheet has already been filed and the investigation qua the applicant herein stands completed. Therefore, custodial interrogation of the applicant is not required.
5. The counsel submits that the applicant is an elderly man of 64 years of age and has been in custody for almost a year. It is further submitted that detention in custody pending completion of the trial would cause great hardship to the applicant, especially considering his advanced age.

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Furthermore, it is submitted that bail is the general rule, and jail is an exception. Reliance in this regard has been placed on the Supreme Court's judgment in *Sanjay Chandra v. CBI*, (2012) 1 SCC 40.

6. *Per Contra*, Learned APP appearing on behalf of the State vehemently opposes the grant of bail as the applicant has been charged, inter alia, of offences under Sections 409/467/120B of the IPC which are serious offences. It is further submitted that the applicant misused his long employment with the respondent no. 2 to cheat him of his property.

7. Counsel appearing on behalf of the respondent no. 2 also opposes the grant of bail on the ground that the applicant had an active role to play in the fraudulent transaction and mere filing of the Chargesheet does not diminish the allegations made against the applicant.

8. Furthermore, he submits that the charges against the applicant herein are of serious nature and hence the reliance placed by the applicant on *Sanjay Chandra* (Supra) is misplaced as the charges in that case carried a maximum punishment for a term of seven years. In this regard, reliance has been placed on the judgments of the Supreme Court in *The State of Bihar v. Amit Kumar*, (2017) 13 SCC 751 and *Virupakshappa Gouda and Anr. v. State of Karnataka and Anr.*, (2017) 5 SCC 406

9. I have heard the counsels for the parties and perused the material on record.

10. It is a settled principle of law that the object of bail is to secure the presence of the accused person during the trial. The object is not to punish the accused person before the trial. In this regard, reference be made to the observations of the Supreme Court in *Sanjay Chandra* (Supra). The relevant extracts are set out herein below:-

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“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

11. Learned counsel for the respondent no. 2 has sought to distinguish the judgment of the Supreme Court in **Sanjay Chandra** (Supra) by placing reliance on the judgments of **Amit Kumar** (Supra) and **Virupakshappa Gouda** (Supra) to submit that the charges in **Sanjay Chandra** (Supra) carried a maximum punishment for a term of seven years, whereas the charges in the present case are more serious. However, it is pertinent to note that in the present case, the charges are yet to be framed and at this stage, it cannot be conclusively stated that charges under Sections 408 or 409 of the IPC can be framed against the applicant, since he had left the employment of the respondent no. 2 in 2017, a fact which has not been rebutted by the

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prosecution.

12. In respect of the present FIR, the applicant was arrested on 25th December, 2022 and hence has been in custody for almost a year. It is also a matter of record that the investigation qua the applicant is complete and that the Chargesheet has been filed.

13. In the present case, the evidence is primarily documentary in nature and already within the custody of the prosecution, therefore, there is no likelihood of the applicant tampering with the evidence or influencing the witnesses, if released on bail.

14. It is also to be noted that the trial is likely to take a long period of time, taking into account the voluminous documents and the number of witnesses to be examined. It is also pertinent to note that the applicant is an elderly man of 64 years of age and his conduct in jail has been satisfactory.

15. Considering the totality of aforesaid facts and circumstances and keeping in mind the age of the applicant and the fact that the trial is likely to take some time, the applicant cannot be kept under incarceration for an indefinite period of time. Therefore, this Court considers it fit to grant bail to the applicant.

16. For the forgoing reasons, the application is allowed and the applicant is directed to be released on furnishing a personal bond in the sum of Rs. 50,000/- with two sureties of the like amount subject to the satisfaction of the Trial Court and further subject to the following conditions:

- i. The applicant shall deposit his passport with the Trial Court and not leave the country without the prior permission of the Court.
- ii. The applicant shall appear before the Trial Court as and when the matter is taken up for hearing.

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- iii. The applicant shall join investigation as and when called by the Investigating Officer (IO) concerned.
 - iv. The applicant shall provide his latest/fresh mobile number(s) to the IO concerned, which shall be kept in working condition at all times and shall not switch it off or change the mobile number(s) without prior intimation to the IO concerned.
 - v. The applicant shall provide his permanent address to the Trial Court. The applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in her residential address.
 - vi. The applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses or tamper with the evidence of the case.
17. Needless to state that any observations made herein are purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on the merits of the case.
18. Furthermore, it is made clear that the present judgment is confined to the facts and circumstances of the present applicant and shall have no bearing on the bail applications of the other co-accused.
19. Accordingly, the application, along with all pending applications, is disposed of.

AMIT BANSAL, J.

NOVEMBER 29, 2023

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