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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3185/2023 & CRL.M.(BAIL) 1338/2023**

DHARAM NARAYAN GAUTAM THROUGH
PAIROKAR Applicant

Through: Mr. Vijay Aggarwal, Mr.
Praney Sharma, Mr.
Hardik Sharma, Ms.
Rhythm Aggarwal, Mr.
Pankush Goyal, Ms. Divya
Singhania & Mr. Ashish
Rawat, Advs.

versus

STATE THROUGH EOW Respondent
Through: Mr. Utkarsh, APP for the
State with SI Lalit Kumar
Sec-V/EOW.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
16.01.2024

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No. 0268/2018 dated 27.12.2018, under Sections 406/420/120-B of the Indian Penal Code, 1860 registered at Police Station Economic Offences Wing, New Delhi.

2. The FIR No. 0268/2018 was registered on the complaint of Mr. J.P. Kakkar against M/s Mist Avenue Private Limited (hereafter '**the company**') alleging that the company through its directors had cheated the complainants and misappropriated their funds which were paid with respect to the purchase of the IT office space.

3. It is alleged that in the year 2012-13, the company

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advertised its new Project “Mist Avenue” wherein it was claimed that thirty three floors of IT office space will be constructed in a period of ninety nine days. It is alleged that the deadline to complete the project was extended from time to time and the company regularly raised money demands without even starting the construction.

4. It is alleged that the name of the project and the name of the company was changed without informing the allottees and the license, to develop the IT office spaces, was granted in the name of M/s Infoedge Private Limited, whereas, the bookings were invited in the name of the accused company. The present FIR was lodged against the company and its directors including the applicant who was an employee director from 02.12.2014 to 09.10.2018.

5. The learned counsel on behalf of the applicant submits that the co-accused Deep Kanwar Singh Walia, who was the Director and authorised signatory of the said company, has already been admitted on bail by order dated 28.08.2023, passed by the Hon’ble Supreme Court. Another co-accused Satender Singh Bhasin, who was the director / chairman of the company and is stated to be the main accused, has been granted pre arrest bail by an order dated 27.05.2019, passed by the learned Additional Sessions Judge, Tis Hazari Courts, West.

6. On being queried, the learned Additional Public Prosecutor, on instructions from the Investigating Officer has not been able to point out as to why the benefit of parity be not granted to the present applicant. It is also not in dispute that the allegations against the other co-accused persons were graver. They were charged for offence under Section 406/409/420 IPC read with Section 120-B of the IPC, whereas the applicant is

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alleged to have committed the offence punishable under Section 406/420 IPC which are punishable for imprisonment up to maximum seven years. There is no allegation that the applicant had accepted money from the complainant.

7. The applicant is in custody since 08.09.2022 and the chargesheet has already been filed way back on 04.11.2022. The evidence at this stage seems to be documentary which is in the possession of the prosecution which led to the filing of the chargesheet.

8. In view of the above, this Court is of the opinion that no purpose would be served by keeping the applicant in further incarceration. The applicant is, therefore, directed to be released on bail on furnishing a bail bond for a sum of ₹50,000/- (Rupees Fifty thousand only) with two sureties of the like amount to the satisfaction of learned Trial Court / Duty Metropolitan Magistrate on the following conditions:

- a. He shall not leave India without prior permission of the learned Trial Court;
- b. He shall not take adjournment before the learned Trial Court;
- c. He shall cooperate in the trial and appear before the Trial Court of the case as and when required;
- d. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- e. He shall not, in any manner, try to contact any of the witnesses;
- f. He shall provide his mobile number to the investigating officer (IO) concerned/SHO concerned at the



time of release which shall be kept in working conditions at all times.

g. In case of change of residential address and/or mobile number, the same shall be intimated to the Investigating Officer/Court concerned by way of an affidavit.

9. In the event of there being any FIR/DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an appropriate application for cancellation of bail.

10. It is also made clear that the observations made in the present case are only for the purpose of considering the bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

JANUARY 16, 2024

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