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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 4408/2024 & CRL.M.(BAIL) 2026/2024**

VARUN DUA

.....Petitioner

Through: Mr. Samarth Krishan
Luthra & Ms. Sanjana
Mishra, Advs.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for
the State.
SI Naresh Sharma, PS
Shahdara.
Mr. Amit Khanna, Ms.
Nandini Hooda & Mr.
Mohit Singh, Advs. for
complainant.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER
23.12.2024

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1. The present application is filed seeking regular bail in FIR No. 367/2024 dated 27.08.2024 registered at Police Station Shahdara for offences under Sections 406/420/34 of the Indian Penal Code, 1860.
2. The FIR was registered on a complaint given by one Gaurav Gupta, who alleged that he was introduced to the applicant and his wife, who used to deal in the sale and purchase of second-hand cars. The complainant wanted to purchase a second-hand car and on 10.11.2022, the applicant and his wife came to his residence and told him that they will arrange a Fortuner car of the year 2020 make for a sum of ₹15,00,000/-.

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3. It is alleged that the complainant transferred a sum of ₹10,00,000/- from his account into the account of M/s. Prabh Autonation. In December, 2022, the complainant was shown a white colour Fortuner car in a good condition whereafter a further sum of ₹5,00,000/- was also paid by the complainant.

4. It is alleged that when the complainant contacted the accused persons for the car, they told him that they have no Fortuner car. Although the applicant returned ₹4,00,000/- to the complainant, however, thereafter, the accused persons became untraceable. It is alleged that on 17.03.2024, the complainant met the applicant who threatened him of dire consequences should the complainant ask for his money. The same led to giving of the complaint on 20.03.2024. The FIR was ultimately registered on 27.08.2024.

5. The applicant was thereafter arrested on 22.10.2024.

6. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the dispute is essentially commercial in nature.

7. He submits that the applicant has always joined the investigation as and when he has been called for. He submits that the proceedings initiated under Section 82 of the Code of Criminal Procedure, 1973 ('CrPC') have already been set aside in May, 2024.

8. He submits that the case of the prosecution is further belied by the fact that as per the complainant's own stand, the complainant was shown a White Fortuner car and only then the complainant paid the remaining amount to the applicant. He submits that the applicant has already returned a sum of ₹4,00,000/- to the complainant.

9. *In arguendo*, he submits that since the applicant was not

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furnished with the grounds of arrest, his arrest in any event is rendered illegal.

10. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the investigation is still underway. He submits that the applicant is involved in other cases of similar nature.

11. He submits that the applicant made false promises to the complainant regarding the delivery of the Fortuner car when no such car was in the possession of the applicant. He submits that the conduct of the applicant must also be considered while deciding the question pertaining to grant of regular bail.

12. He submits that in one case NBWs have been issued against the applicant, and in another case, proceedings under Section 82 of the CrPC had previously been initiated against the applicant. He submits that the charge sheet is yet to be filed, and consequently prays that the applicant not be enlarged on bail.

13. The learned counsel for the complainant submits that the applicant and his wife have cheated multiple victims. He submits that the applicant and his wife have sold cars to various other persons, and have also taken money from such intended purchasers, however, no car was ever delivered.

14. He submits that multiple cars were shown by the applicant and her wife only for the purpose of inducing the victims to part with their hard-earned money. He submits that the same ought to be considered while deciding the present application.

15. I have heard the learned counsel and perused the record.

16. The case of the prosecution is that the applicant and his wife induced multiple victims to part with a substantial amount of consideration by showing them cars without any intention of



selling them.

17. This Court *vide* order dated 19.11.2024 enlarged the wife of the applicant on bail. The role of the applicant in the alleged offence is not different from that of her wife.

18. It has been contended by the learned counsel for the complainant that multiple victims and cars are involved in the present case. Such allegations and defences will be seen during the course of trial, however, it cannot be denied that the entire evidence, at this stage, appears to be documentary in nature. The financial transactions were allegedly carried out through banking channels. Merely because multiple cars are allegedly involved in the present case does not translate to mean that the applicant ought to stay in incarceration for a longer period. It is also not disputed that some amount has already been returned by the applicant. Whether the transaction was purely commercial in nature or otherwise would be tested after the evidence is led and cannot be presumed at this stage.

19. The learned Additional Public Prosecutor for the State, while opposing the grant of bail to the applicant had drawn the attention of this Court to multiple proceedings initiated against the applicant. Concededly, the proceedings under Section 82 of the CrPC have already been set-aside, and the applicant is stated to have already been enlarged on pre-arrest bail in the other FIR registered against him.

20. The purpose of custodial interrogation is to aid the investigation and is not punitive. On being asked, the Investigating Officer informed that the chargesheet is not filed since Section 468 of the IPC was added and the prosecution then have 90 days to complete investigation. However, looking at the nature of the dispute and the fact that transactions were carried



out through banking channels, it can safely be presumed that the evidence is essentially documentary in nature, which is in possession of the of Police. In such circumstances, the custody of the applicant will serve no purpose.

21. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

22. In view of the above, without commenting further on the merits of the case, I am of the opinion that the applicant has made out a *prima facie* case for bail.

23. Considering the aforesaid, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a) The applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b) The applicant shall under no circumstance leave the boundaries of the country without the permission of the learned Trial Court;
- c) The applicant shall appear before the learned Trial Court as and when directed;
- d) The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned



IO/ SHO;

- e) The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

24. 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 application seeking cancellation of bail.

25. It is clarified that any observations made in the present order are for the purpose of deciding the present 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.

26. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

DECEMBER 23, 2024