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

% ***Date of decision: 21st January, 2025***

\+ **BAIL APPLN. 247/2025, CRL.M.A. 1715/2025**

KAPIL DEV PASRICHA .....Petitioner

Through: Mr. Kunal Narwal, Ms. Jyoti Nambiar and Mr. Yogesh Kumar, Advocates.

versus

THE STATE NCT OF DELHI .....Respondent

Through: Ms. Meenakshi Dahiya, APP for the State with SI Arun Ahlawat, PS EOW.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT *(oral)*

1. A Bail Application under Section 483 of BNSS read with Section 439 Cr.P.C has been filed by the *Applicant Kapil Dev Pasricha* for grant of Regular Bail in FIR No.136/2012 dated 30.09.2012 under Section 406/420/120B IPC Police Station EOW, Delhi.

2. The Applicant state that he is a law abiding Citizen of India and has been falsely implicated by the Police in this case. He is under arrest since 13.02.2021.

3. The ***brief facts*** of the present case are that the Applicant/Kapil Dev Pasricha and his associates lured innocent people of Assam, Orissa and West Bengal and cheated about 10,500 investors of their money. On 30.11.2019, the Applicant and his co-accused Mukesh Bhardwaj were declared

Proclaimed Offenders. Subsequently, the Applicant was arrested on 13.02.201 from Dehradun, Uttrakhand, where he was doing a private job. During investigations nothing was recovered from his possession in relation to this case. The investigations have been completed and Chargesheet filed before the Trial Court on 09.04.201. The Charges under Section 409/120B/174A IPC have been framed only on 03.08.2024 i.e. after about three years and four months of the Applicant's being in punitive custody. On the last three dates when the matter was fixed for Prosecution Evidence, no witnesses have been examined. The grounds on which the Bail is sought are that:

(a) the co-accused Deepak Dogra was admitted on regular bail on 06.02.2023;

(b) co-accused Mukesh Bhardwaj who was also one of the Director in the accused's Company and had similar role as the Applicant, was granted regular Bail by this Court on 17.07.2023;

(c) the First Bail Application under Section 439 Cr.P.C filed before the Sessions Court by the Applicant was dismissed in default and non-prosecution on 23.12.2023.

(d) he again filed Second Bail Application under Section 439 Cr.P.C, but the same has been dismissed on 24.04.2024

(e) the Applicant filed another Bail Application after the framing of Charges, but the same was also dismissed by the Trial Court on 17.09.2024; and

(f) the next Bail Application under Section 439 Cr.P.C. has again been dismissed on 09.10.2024.

4. The Applicant submits that most of the evidence is in the nature of documents and there is no chance of its tampering by the Applicant. There are 28 total Prosecution witnesses including 9 public witnesses who are mostly resident of West Bengal and the Applicant undertakes to be not in contact with them in any manner. No further custodial interrogation is required as nothing further is to be recovered from his possession. The Applicant is ready to cooperate with the investigations as and when directed by the Court. He is a permanent resident of the given address and has no change of fleeing from justice and undertakes to furnish his permanent address for correspondence. He undertakes to abide by all the terms and conditions which may be imposed while granting Bail. Denial of bail to the Applicant would be violative of his fundamental rights under Article 14,19 and 21 of the Constitution.

5. Therefore, bail is sought by way of the present Application.

6. ***Learned Prosecutor has appeared on advance Notice*** and asserted that there are 10,500 innocent people who have been cheated of their hard earned money. The Applicant is the main accused who had even evaded the process of law and was declared a *Proclaimed Offender*. Considering that he is the main accused, he cannot claim parity with the co-accused and considering the gravity of the offence, the bail is opposed.

7. **Submissions heard and record perused**.

8. As per the record, FIR was registered on 30.09.2012 on the directions given by the learned M.M under Section 156(3) Cr.P.C. A Complainant had been filed, wherein it was alleged that one Finance Company M/s Money Bhandar has been defrauding public since May, 2009 by collecting funds on

the pretext of *Money Back Schemes* with lucrative interest after a fixed period of deposit. However, at the time of returning of such money, the office of the Company was shut and no returns were made to the customers. It was claimed at about Rs.32 crores were collected from around 10,500 investors. It was further alleged that the same Company i.e. Money Bhandar introduced another de-frauding Scheme, whereby it had assured the customers of refund of amounts provided they joined the new Scheme on deposit of money with new Company/*M/s B.P Jwellers Pvt. Ltd.* The said Company issued cheques to the customers, but most of them were dishonoured due to insufficiency of funds.

9. The investigations revealed that the Applicant had started this Company (sic *sole proprietorship Firm*) and opened an account in Axis Bank, Meera Bagh, Paschim Vihar on 22.07.2009. He was the sole account holder and authorized signatory. Money was received from the investors in this account in cash and through cheques and there were small withdrawals. The Applicant had opened *another* bank account in Axis Bank, Meera Bagh in his name on 09.09.2009.

10. The record from the ROC of the accused Company reflected that he and Mukesh Bhardwaj the co-accused, were the two Directors of this Company M/s Money Bhandar (eventually changed to B.P. Jewellers Pvt. Ltd.). As per the reply from RBI, this alleged Company was not a registered NBFC and not authorized to accept Public Deposits.

11. Furthermore, there are four more other cases registered against the Applicant as under :

(a) *FIR No.180/2012 dated 02.05.2012 under Section*

406/420 IPC P.S. Izzat Nagar, Bareilly, U.P;

(b) FIR No.343/2006 dated 16.06.2006 under Sections 420/467/468/471 IPC P.S. Udyog Vihar, Gurgaon, Haryana;

(c) FIR No.340/2011 dated 09.11.2011 under Section 406/420/34 IPC P.S. Mianwali, West Delhi; and

(d) FIR No.1524/2013 dated 06.10.2015 under Section 420/406/120B IPC, P.S. Vasant Vihar, South Delhi.

12. It is further indicated that in two of these FIRs No.343/2006 and 340/2011, the Applicant had been declared Proclaimed Offender. He had been avoiding his arrest and was declared Proclaimed Offender after which he was arrested from Dhalwala.

13. Initially, the Applicant was the sole Proprietor of M/s Money Bhandar which was later formed into a Company *M/s B.P. Jewellers Pvt. Ltd.* with the Applicant and Mukesh Bhardwaj as the two Directors. As per the records of ROC, there is no resignation of the two Directors available.

14. From the investigations, it has been found that the Applicant is the main mastermind who has been forming Companies none of which are NBFC and luring innocent investors/public domain investments on the false promise of high returns, but has consistently failed to return their money.

15. The fraud is being perpetuated consistently by the Applicant and it is the public at large which has been cheated. Not only this, he has a record of four prior FIRs with similar allegations. Not only this, he has a tendency of fleeing from the process of law in the two cases as indicated above, in which he has been declared as a Proclaimed Offender. Even in this case, he evaded his arrest to the point of being declared a Proclaimed Offender after which

only he could be arrested.

16. The *antecedents and the modus operandi* of the Applicant indicates that he has been from time to time floating Ponzi schemes to cheat innocent and gullible people of their hard earned money. The Charges have already been framed and the witnesses are being recorded. No parity can be claimed by the Applicant with the co-accused who was not a named accused in the Complaint and whose name featured subsequently. In the totality of circumstances, no case is made out for grant of bail.

17. The Bail Application is dismissed and is disposed of along with the pending Application(s), if any.

(NEENA BANSAL KRISHNA)
JUDGE

JANUARY 21, 2025
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