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

\+ **BAIL APPLN. 271/2025**

AMIT KUMAR KHOKHAR .....Petitioner

Through: Mr. Harsh Yadav and Mr. Pooja, Advocates.

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Ritesh Kumar Bahri, APP for the State with Ms. Divya Yadav, Advocate and SI Shivpal Singh, PS Mayapuri.
Mr. Garvit Solanki, Advocate for complainant.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **02.05.2025**

1. The present application is filed seeking regular bail in FIR No. 102/2023 dated 20.05.2023, registered at Police Station Mayapuri, for the offences under Sections 420/120B of the Indian Penal Code, 1860 (‘**IPC**’).

2. The present FIR was registered on a complaint filed by Mr. Rajeev Chaudhary alleging that the applicant along with his wife and mother had defrauded him of ₹25 lakhs on the pretext of selling a property located at WZ-186, Lajwanti Garden, Delhi (hereafter ‘**subject property**’). It is alleged that the applicant is residing in the subject property and there is an ongoing dispute in relation to the ownership of the same between the applicant’s mother and one Vijender Kaushik, wherein the Court has prohibited both parties from creating any third-party interest. It is alleged that despite the court order, the accused persons entered into an agreement to sell in relation to the subject property with an intention to cheat the complainant and took ₹25 lakhs from the complainant in relation to the same.

3. During investigation, three cars, one motorcycle and one scooty was recovered from the applicant which were allegedly purchased from the proceeds of the crime.

4. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

5. He submits that the complainant has sought to implicate the applicant in collusion with Mr. Vijender Kaushik with the sole intention of grabbing the subject property. He submits that the alleged agreement to sell is a forged document.

6. He submits that the applicant’s mother had taken a friendly loan of ₹20 lakhs from the complainant and the complainant had taken signed blank papers from the applicant’s mother as security, which have been misused. He submits that the applicant’s mother had made a complaint in this regard on 02.09.2022, much prior to registration of the FIR.

7. He submits that the chargesheet has been filed and no purpose will be served by subjecting the applicant to undergo further period in custody.

8. He further submits that the bail application of the applicant was rejected by the learned Trial Court due to apprehension of him being a flight risk as he had been declared to be a proclaimed offender in another case. He submits that the applicant has already been granted bail in that case by the Hon’ble High Court of Punjab and Haryana.

9. *Per contra*¸ the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant. He submits that the applicant has prior antecedents, including a case of similar nature, and he is a habitual offender with no fixed place of residence.

10. He submits that the cheated amount is yet to be recovered in the present case as well.

11. I have heard the counsel and perused the record.

12. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

13. It is the case of the prosecution that the applicant along with the other accused persons has cheated the complainant by inducing him to pay ₹25 lakhs for purchase of the subject property, even though, the civil court had ordered against creation of third-party interest in relation to the same.

14. It is argued that the complainant is trying to falsely implicate the applicant to grab the subject property and the alleged agreement to sell is forged and fabricated. It is further argued that the blank papers signed by the applicant's mother have been misused by the complainant.

15. The veracity of the alleged agreement to sell as well the defences raised by the applicant will be seen during the course of the trial, however, at this stage, it cannot be ignored that while allegations of inducement have been made against the applicant, the alleged agreement to sell has been executed by the applicant's mother.

16. It is also relevant to note that the investigation in the

present case already stands concluded *qua* the applicant and the chargesheet has been filed against him.

17. As per the statutory provisions, the maximum sentence for the offence punishable under Section 420 of the IPC is seven years. The applicant has already spent more than an year in custody and the trial is likely going to take long to conclude.

18. Apprehension has been expressed that the applicant may try to evade trial as he was declared to be a proclaimed offender in another case. As pointed out, the applicant has already been granted bail in that case by the Hon'ble Punjab and Haryana High Court by order dated 08.01.2025, in CRM-M-63895-2024. The order granting bail has been placed on record.

19. It is also argued by the learned APP that the applicant is involved in another case of a similar nature and the applicant is a habitual offender. Insofar as the other antecedent of the applicant is concerned, it is also settled law that criminal antecedents of an accused cannot be a basis for refusal of bail [Ref. ***Prabhakar Tewari v. State of U.P.*** **: (2020) 11 SCC 648**].

20. 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. The applicant cannot be made to suffer incarceration endlessly for the purpose of recovery of the cheated amount, when the allegations are yet to be proven against him in trial.

21. 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, the applicant has made out a case for grant of bail and is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- 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 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 phones switched on at all times.

23. 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.

24. 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.

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

AMIT MAHAJAN, J

MAY 2, 2025