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

+ **BAIL APPLN. 708/2025**

HAZI KARIMUDDIN

.....Petitioner

Through: Mr. Amreek Singh and Ms. Kavita
Kaur, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for State.
SI Jugnu Tyagi, PS: Dayal Pur.
Mr. Jhamim Ahmad Khan, Advocate
for Complainant.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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10.09.2025

1. The present application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 438 of the Code of Criminal Procedure, 1973²) seeks pre-arrest bail in FIR No. 722/2023 registered at P.S. Dayal Pur under Sections 420/468/471/34 of the Indian Penal Code, 1860³. The FIR has been registered pursuant to an order passed under Section 156(3) of the Cr.P.C, on a complaint filed by one Mr. Mohd. Shakir (the Complainant).

2. Briefly, the facts of the case are as follows:

2.1 On 01st July, 1974, Late Mr. Mohd Fazil and Mrs. Shamshadi Bagaum

¹ "BNSS"

² "Cr.P.C."



(the father and mother of the Complainant) jointly purchased a property bearing Plot No. 25 out of Khasra No. 387/1, admeasuring 300 sq. yards, situated in the area of village Mustafabad, illaka Shahdara, Delhi *vide* registered sale deed dated 01st July, 1974 at Sr. 1486, Book No. 1, Volume No. 702 Page Nos. 178-179.

2.2 On 20th June, 1974, Mrs. Shamima Begum (paternal aunt of the Complainant) and her husband, Mr. Mohd. Ahmad, also jointly purchased a property from Sh. Shiv Charan, bearing Plot No. 26 out of Khasra No. 386/1, admeasuring 200 sq. yards, situated in the area of village Mustafabad, illaka Shahdara, Delhi. The sale was registered *vide* a registered sale deed dated 01st July, 1974 at Sr. 1487, Book No. 1, Volume No. 702 Page Nos. 180-181. The aforesaid properties, being adjacent to each other, are situated in Gali Nos. 9 and 10, near Anar Masjid, Old Mustafabad, Delhi- 110094.

2.3 The Complainant alleges that both the aforesaid properties were rented out in August 2016 to one Mohd Jakir Malik, who deceased on 22nd April, 2022 and thereafter, one Mohd Irshad paid the rent till November 2022. On 16th February, 2023, Mohd Irshad allegedly raised an unauthorized construction and refused to vacate the subject properties with the intention to grab the same.

2.4 In this regard, on 22nd May, 2023, the Complainant filed a civil suit bearing No. 239/2023, seeking possession of the properties and permanent injunction against the accused. During hearing of the civil suit, Mohd Irshad allegedly filed his response claiming that the said properties belonged to his father, Haji Karimuddin (the Applicant), mother, Rahisa Khatoon, and brother, Nasir.

³ “IPC”



3. Counsel for the Applicant submits that the Applicant and his family are the lawful owners and in possession of a property bearing **Khasra No. 347**, Village Mustafabad, Delhi, along with an adjoining property, both collectively admeasuring 440 sq. yards. It is contended that the Applicant had purchased the aforementioned properties in the year 1989 from one Mr. Beg Raj through documents including a notarized Power of Attorney, Agreement to Sell, Payment Receipt, etc.
4. The Complainant, on the other hand, claims ownership over properties falling under **Khasra Nos. 386/1 and 387/1**, admeasuring approximately 500 sq. yards. It is contended that these khasra numbers are distinct from Khasra No. 347, and that no injunction has been granted in favour of the Complainant in the ongoing civil suit. Further, as per the demarcation report issued by the office of the concerned SDM dated 16th October 1998, Khasra Nos. 347, 386/1, and 387/1 are not adjacent to each other.
5. The Applicant alleges that the Complainant is attempting to forcibly take possession of his lawful property using fabricated documents, by initiating criminal proceedings. In this regard, the Applicant has filed a complaint case bearing No. 1028/2024, which is currently pending adjudication before the Karkardooma Courts, Delhi.
6. Considering the aforementioned facts and contentions, this Court, on 17th February, 2025, had passed the following order, directing the Applicant to join investigation:

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4. The present bail application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023, seeks pre-arrest bail in FIR no. 722/2023 dated 27th November, 2023, under Sections 420, 468, 471 and 34 of the Indian Penal Code, 1860, registered at P.S. Dayal Pur. The



FIR has been registered on the complaint under Section 156(3) of the Code of Criminal Procedure, 1973 , filed by one Mr. Mohd. Shakir (the complainant)

5. Briefly, the facts of the case are as follows:

5.1 On 01st July, 1974, late Mr. Mohd Fazil and Mrs. Shamshadi Bagaum (the father and mother of the complainant – Mr. Mohd. Shakir) jointly purchased a property bearing plot no. 25 out of Khasra No. 387/1, admeasuring 300 sq. yards, situated in the area of village Mustafabad, illaka Shahdara, Delhi vide registered sale deed dated 01st July, 1974 at Sr. 1486, Book No. 1, Volume No. 702 page No. 178-179.

5.2 On 20th June, 1974, Mrs. Shamima Begum (real sister of Mr. Mohd Fazil and the paternal aunt of the complainant) and her husband Mr. Mohd. Ahmad also jointly purchased a property from Sh. Shiv Charan, bearing plot no. 26 out of Khasra No. 386/1, admeasuring 200 sq. yards, situated in the area of village Mustafabad, illaka Shahdara, Delhi. The sale was registered vide a registered sale deed dated 01st July, 1974 at Sr. 1487, Book No. 1, Volume No. 702 page No. 180-181. The aforesaid properties which are adjacent to each other, are presently situated in Gali no. 9 and 10, near Anar Masjid, Old Mustafabad, Delhi-110094.

5.3 The complainant alleges that both the aforesaid properties were rented out in August 2016, to one Mohd Jakir Malik, who deceased on 22nd April, 2022 and thereafter, one Mohd Irshad paid the rent till November 2022. On 16th February, 2023, Mohd Irshad allegedly raised an unauthorized construction and refused to vacate the subject properties with the intention to grab the same. In this regard, on 22nd May, 2023, the complainant also filed a Civil suit bearing No. 239/2023, through his attorney named Pervej, seeking possession of the properties and permanent injunction. During hearing of the civil suit, Mohd Irshad allegedly filed his response claiming that the said properties belonged to his father – Haji Karimuddin (the Applicant herein) and mother - Rahisa Khatoon.

5.4 It is the case of the applicant that he and his family members have lawful ownership and possession over the property bearing Khasa No. 347, Village Mustafabad, Delhi, admeasuring 440 sq. yards. The Applicant asserts that he purchased the said property in the year 1989 from one Mr. Beg Raj vide a notarized power of attorney, agreement to sell, payment receipt etc.

5.5 On the other hand, the complainant alleges that these property documents are forged and fabricated and do not bear the signature of the purchases – i.e., the Applicant. The complainant further alleges that the Applicant and his family members have manipulated and forged documents to assert their claim over the subject properties with the intention to illegally grab the properties, thus constituting the offences under Sections 420, 468, 471 and 34 of IPC.



6. Counsel for the Applicant points out that the Applicant has joined the ongoing investigation many times and has furnished all necessary documents to the Investigating Officer. Further, he submits that other persons named in the FIR, the family members of the Applicant, have already been granted pre-arrest bail by the Trial Court and as such, the Applicant should also be granted bail on the grounds of parity. The Applicant is also willing to join and fully cooperate the ongoing investigation, as and when called by the IO.

7. The APP for the State strongly as well as counsel for the complainant oppose the present bail application. They argue that there is an apprehension that the Applicant may attempt to influence Mr. Beg Raj s/o Shri Dhanpal, from whom the Applicant alleges to have purchased the property in question.

8. Considering the facts of the case, prima facie the dispute between the parties is largely civil in nature, for which civil proceedings have already been initiated. Further, the Applicant is willing to cooperate in investigation. Accordingly, it is directed that the Applicant shall appear before the concerned IO tomorrow – i.e., 18th February, 2025 at 11:00 AM and shall fully cooperate in the ongoing investigation.

9. Subject to above, till the next date of hearing, no coercive steps shall be taken against the Applicant. It is further directed that the Applicant shall not try to contact or influence Mr. Beg Raj, s/o Shri Dhanpal and shall not leave GNCTD without prior permission of the Trial Court.

10. Issue notice. Counsel mentioned in appearance above accepts notice.

11. Let the status report be filed before the next date of hearing.

12. Re-notify on 28th March, 2025."

7. Pursuant to the said directions, the Applicant has duly appeared before the IO and the investigation is proceeding towards conclusion; however, Mr. Mukesh Kumar, APP for the State, opposes the bail application on the ground that the Applicant has not been cooperating in the investigation. He submits that the Applicant is not only charged under Section 420 IPC, but also under Sections 467 and 471 IPC, which are serious offences involving forgery and use of forged documents. It is alleged that the Applicant has claimed different khasra numbers and varying sizes of the disputed properties; and was accordingly, directed to provide the chain



of title documents along with details regarding the stamp papers used, notary, mediator, witnesses, and executors, particularly since the documents already produced are not completely legible. However, the Applicant has failed to furnish the required information or produce the complete chain of documents, thereby necessitating custodial interrogation. In light of the Applicant's lack of cooperation, it is contended, he is not entitled to the discretionary relief of bail.

8. The Court has considered the aforementioned contentions raised by both parties. Pertinently, the Prosecution's case revolves around a property dispute, which hinges upon documentary evidence. The facts on record, as well as the submissions made, indicate that a civil suit pertaining to the same subject matter is presently pending between the parties. Given this background, and in light of the Applicant having joined the investigation and undertaking to appear before the Investigating Officer, the Court is of the view that mere non-production of certain documents by the Applicant cannot, in itself, justify custodial interrogation.

9. The Supreme Court has repeatedly emphasized that the provision of anticipatory bail, under Section 438 Cr.P.C., is rooted in Article 21 of the Constitution, which guarantees personal liberty. This calls for a liberal interpretation of the provision, upholding the fundamental principle that every individual is presumed innocent until proven guilty. Section 438 aims at protecting the personal liberty of an individual, who, at the time of seeking anticipatory bail, has not been convicted of the alleged offence and is entitled to the presumption of innocence.⁴ Accordingly, in the totality of

⁴ Gurbaksh Singh Sibbia and Others v. State of Punjab, (1980) 2 SCC 565; Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694.



the foregoing circumstances, the Court finds it to be a fit case for the grant of anticipatory bail. The application is, therefore, allowed. The Applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The Applicant shall join and cooperate with the investigation as and when directed by the IO;
 - b. The Applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
 - c. The Applicant shall not contact the witnesses or tamper with the evidence in any manner;
 - d. The Applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
10. 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.
11. 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.
12. The application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

SEPTEMBER 10, 2025

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