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

+ **CRL.M.C. 2149/2025**

MILON KUMAR SANYAL

.....Petitioner

Through: Mr. Raajan Chawla, Ms.
Manika Jolly, Ms. Pallavi
Yadav, Advocates.

versus

STATE NCT OF DELHI & ORS.

.....Respondents

Through: Ms. Kiran Bairwa, APP
for the State.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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01.04.2025

CRL.M.A. 9638/2025 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CRL.M.C. 2149/2025 & CRL.M.A. 9637/2025 (for interim directions)

3. The present petition is filed seeking following reliefs:

“a. direct for expeditious disposal, within four months, of the Ct. Case No. 15466/2023 “Anirban Sanyal & Anr. Vs. Rajesh Projects Pvt.. Ltd. & Ors., pending before Ld. JMFC-02, Northwest District, Rohini Courts, Delhi;

b. direct the trial court/ Ld. JMFC-02, to call for personal physical appearance of the accused before accepting their bail bonds as per last Order dated 23.12.2024 whereby accused were admitted to bail who appeared through V.C., and appropriate conditions as mandated u/s 480 (3) BNSS,2023 may kindly be imposed on the accused as the offences u/s 420/406/34 IPC are punishable up to 7 years imprisonment

c. pass any other or further matter as may be deemed fit & proper in the facts & circumstances of the case.”

4. Brief facts of the case are that a private complaint bearing

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Ct. Case No. 15466/2023 was filed by the petitioner's son namely– Sh. Anirban Sanyal under Section 200 of the Code of Criminal Procedure, 1973 ('CrPC'), against the accused persons namely– M/s Rajesh Projects (India) Pvt. Ltd., M/s RG Residency Pvt. Ltd., Sh. Rajesh Goyal (Managing Director), Himanshu Garg (Director), Sh. Deepak Gupta (Director), Sh. Amod Kumar Jha (Director), under Sections 420/406/120B/34/35/37 of the Indian Penal Code, 1860 ('IPC'). The petitioner herein was impleaded as Complainant No. 2 *vide* order dated 20.01.2024 passed by the learned Trial Court on the ground that he is an affected party in the case.

5. It was alleged that the complainants had invested money towards purchase of a unit in the residential project of the accused company in February, 2012, however, in 2015, the accused persons made an offer to the allottees including the complainants, to either accept the belated possession of the residential units or surrender their booking in the Project and take full refund of the amount paid towards the purchase of the unit. It is alleged that when complainants opted to surrender the booking, the accused company failed to refund the amount, despite various reminders.

6. It is alleged that on inquiry with the officials of the accused company, it was found that the said company was deliberately not returning the money to those allottees who opted for surrender of their booking. It is stated that in 2018, the complainant visited the said apartment, it was found that the said apartment was already sold to a third party.

7. The learned Trial Court *vide* order dated 01.08.2024 issued summons to the accused persons, whereafter the matter was listed on 29.10.2024. On 29.10.2024 the parties were directed to

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approach the mediation centre to explore the possibility of settlement, however the same was not successful and the matter was put up before the learned Trial Court on 23.12.2024.

8. The learned Trial Court *vide* order dated 23.12.2024 (hereafter '**impugned order**') directed the accused persons to furnish personal bond of Rs.10,000/- with one surety of the like amount before the next date of hearing.

9. The grievance of the petitioner is that the accused persons were directed to furnish bonds without physically appearing before the learned Trial Court, whereas the bonds of the accused persons can only be accepted after making physical appearance before the learned Trial Court, and after imposing the conditions as mandated under Section 480 (3) of the Bharatiya Nyaya Suraksha Sanhita, 2023 ('BNSS') as the offences alleged in the present case are punishable up to 7 years of imprisonment.

10. The learned counsel for the petitioner submits that the petitioner is a senior citizen of 78 years of age and is suffering from various ailments and does not does not have a long life expectancy. He submits that the petitioner also has an unmarried daughter who is suffering from mental illness and is dependent on the petitioner, and therefore, a direction may be passed to expedite the disposal of the present matter before the learned Trial Court. In this regard he places reliance on the Press Release of the Ministry of Law and Justice dated 22.07.2003 in regard to priority for cases of senior citizens and women in Fast Track Courts.

11. He further places reliance on various judgements passed by the Hon'ble Apex Court including *Sanjai Tiwari v. State of UP*, wherein it was held that the High Court may direct the trial court to expedite criminal proceedings in appropriate cases in its *CRL.M.C. 2149/2025*



exercise of power under Section 482 of the CrPC.

12. The primary issue before this Court is whether the learned Trial Court was justified in directing the accused persons to furnish personal bonds along with surety to secure their appearance in Court, without the accused persons being physically present in Court and without applying the conditions entailed in Section 480(3) of the BNSS.

13. The factual background involves a criminal complaint that was filed by the complainant before the learned Trial Court against the accused company and its representatives, alleging cheating and criminal breach of trust, following which the accused persons were summoned *vide* order dated 01.08.2024. The order dated 29.10.2024 reflects that the matter was referred to mediation, with the consent of both parties, however since the same was not fruitful the matter was again listed before the learned Trial Court on 23.12.2024, on which date the learned Trial Court admitted the accused persons on bail with a direction to furnish personal bonds and surety *vide* the impugned order.

14. It is pertinent to mention here that the learned Trial Court proceeded under Section 200 of the CrPC and examined the complainants and issued process against the accused persons who were summoned and admitted to bail with bond and surety to secure their appearance before the Court.

15. Section 88 of the CrPC confers a discretionary power upon the Trial Court to require a bond for ensuring the attendance of a person in Court when such attendance is deemed necessary. This provision is intended as a procedural safeguard to ensure compliance with judicial directives when an accused is summoned to appear before the Court. However, the discretionary nature of Section 88 of the CrPC implies that bail



bonds must be assessed in the context of specific facts and circumstances of each case. The provision does not prescribe a rigid or inflexible standard for its application.

16. It is observed that the impugned order is merely an order of bond for appearance. It is settled law that a warrant may be issued under Section 89 of the CrPC, for the arrest of the accused persons who fail to comply with the order directing bonds for appearance. At this stage it cannot be presumed that the accused persons have failed to furnish bonds as directed in the impugned order.

17. The Hon'ble Apex Court in ***Tarsem Lal v. Enforcement Directorate : (2024) 7 SCC 61***, while dealing with an appeal against an order of denial of pre-arrest bail in a complaint filed under the provisions of Prevention of Money Laundering Act, 2002, made observations regarding Section 88 of the CrPC, the same are reproduced as under:

*“20. Firstly, after examining the provisions of PMLA, it is apparent that Section 88 is in no manner inconsistent with the provisions of PMLA. Therefore, Section 88 will apply after filing of a complaint under Section 44(1)(b) PMLA. If Section 88 is to apply even before a summons is issued or served upon a complaint, there is no reason why it should not apply after the service of summons. **A discretionary power has been conferred by Section 88 on the court to call upon the accused to furnish bonds for his appearance before the court. It does not depend on the willingness of the accused. The object of Section 88 is to ensure that the accused regularly appears before the court. Section 88 is a part of Chapter VI CrPC under the heading “Processes to Compel Appearance”.** Section 61, which deals with the form of summons and mode of service of summons, is a part of the same Chapter. **When a summons is issued after taking cognizance of a complaint to an accused, he is obliged to appear before the criminal court on the date fixed in the case unless his presence is exempted by an express order passed in the exercise of powers under Section 205CrPC. Therefore, when an accused appears pursuant to a summons issued on the complaint, the court will be well within its powers to take bonds under Section 88 from the accused to ensure his appearance before the court.** Therefore, when an accused appears before the Special Court under a summons*



issued on the complaint, if he offers to submit bonds in terms of Section 88, there is no reason for the Special Court to refuse or decline to accept the bonds. Executing a bond will aid the Special Court in procuring the accused's presence during the trial.

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24. Now, we come to the issue of whether an order of the court accepting bonds under Section 88 amounts to grant of bail. If an accused appears pursuant to a summons issued on the complaint, he is not in custody. Therefore, there is no question of granting him bail. Moreover, even if the accused who appears before the court does not offer to submit bonds under Section 88CrPC, the court can always direct him to do so. A bond furnished according to Section 88 is an undertaking to appear before the court on the date fixed. The question of filing bail bonds arises only when the court grants bail. When an accused furnishes a bond in accordance with Section 88CrPC for appearance before a criminal court, he agrees and undertakes to appear before the criminal court regularly and punctually and on his default, he agrees to pay the amount mentioned in the bond. Section 441CrPC deals with a bond to be furnished by an accused when released on bail. Therefore, in our considered view, an order accepting bonds under Section 88 from the accused does not amount to a grant of bail.

(emphasis supplied)

18. As noted earlier, the impugned order was passed in a complaint filed by the complainant under Section 200 CrPC. The learned Trial Court after examining the complainants, issued process against the accused persons, and on their subsequent appearance, directed them to furnish bonds under Section 88 of the CrPC. As held by the Hon'ble Apex Court in ***Tarsem Lal v. Enforcement Directorate*** (*supra*), the order accepting bond under Section 88 CrPC cannot be equated with an order granting bail, while exercising the powers under Sections 437 and 439 of CrPC, which requires the accused to be put on conditions at the time of him being admitted on bail.

19. Enough discretion has been given to the learned Trial Court to put appropriate conditions, keeping in view the specific facts and circumstances of the case. In the present case, as noted



above, after initial order of summoning the accused, the matter was also referred to mediation for exploring the possibility of settlement amongst the parties, and the same having failed, the learned Trial Court directed the accused persons to furnish bail bonds.

20. In view of the law laid down by the Apex Court, I find no merit in the arguments advanced by the learned counsel for the petitioner that the bail bonds ought not to be accepted without imposing appropriate conditions entailed in Section 480(3) of the BNSS.

21. The contention of the petitioner that he is a senior citizen and is suffering from ailments due to which he does not have a long life expectancy does not hold any merit at this stage, when, admittedly, the case was itself filed by the son of the petitioner, only one and a half years back, in August, 2023. The order sheets indicate that the petitioner herein was impleaded as Complainant No. 2 *vide* order dated 20.01.2024. On 29.10.2024 the matter was referred to mediation, with the consent of both parties, however since the same was not fruitful the matter was again listed before the learned Trial Court. Subsequently, on 23.12.2024, the accused persons have only been directed to furnish bonds before the next date of hearing. It cannot be held at this stage that the trial has been unnecessarily prolonged. The prayer of the petitioner to dispose of the case within a period of 4 months is unreasonable.

22. In the case of ***Allahabad High Court Bar Association v. State of U.P. : (2024) 6 SCC 267***, a Constitution Bench comprising five judges of the Hon'ble Apex Court made specific observations regarding the authority of Constitutional Courts to issue directions for the time-bound disposal of cases. The ***CRL.M.C. 2149/2025***



relevant portion of the judgement is reproduced as under:

“41. Apart from dealing with huge arrears, our trial courts face the challenge of dealing with a large number of cases made time-bound by our constitutional courts. **Therefore, in the ordinary course, the constitutional courts should not exercise the power to direct the disposal of a case before any District or trial court within a time span.** In many cases, while rejecting a bail petition, a time-limit is fixed for disposal of trial on the ground that the petitioner has undergone incarceration for a long time without realising that the trial court concerned may have many pending cases where the accused are in jail for a longer period. **The same logic will apply to the cases pending before the High Courts. When we exercise such power of directing High Courts to decide cases in a time-bound manner, we are not aware of the exact position of pendency of old cases in the said courts, which require priority to be given.** Bail petitions remain pending for a long time. There are appeals against conviction pending where the appellants have been denied bail.

42. **Therefore, constitutional courts should not normally fix a time-bound schedule for disposal of cases pending in any court. The pattern of pendency of various categories of cases pending in every court, including High Courts, is different. The situation at the grassroots level is better known to the Judges of the courts concerned. Therefore, the issue of giving out-of-turn priority to certain cases should be best left to the courts concerned. The orders fixing the outer limit for the disposal of cases should be passed only in exceptional circumstances to meet extraordinary situations.**

43. There is another important reason for adopting the said approach. **Not every litigant can easily afford to file proceedings in the constitutional courts. Those litigants who can afford to approach the constitutional courts cannot be allowed to take undue advantage by getting an order directing out-of-turn disposal of their cases while all other litigants patiently wait in the queue for their turn to come.** The courts, superior in the judicial hierarchy, cannot interfere with the day-to-day functioning of the other courts by directing that only certain cases should be decided out of turn within a time-frame. In a sense, no court of law is inferior to the other. **This Court is not superior to the High Courts in the judicial hierarchy. Therefore, the Judges of the High Courts should be allowed to set their priorities on a rational basis. Thus, as far as setting the outer limit is concerned, it should be best left to the courts concerned unless there are very extraordinary circumstances.**”

(emphasis supplied)

23. It is pertinent to note that the judicial system is already overburdened with a multitude of litigations that remain pending



for years. In this context, the present case does not warrant prioritisation over other matters requiring more immediate attention.

24. Even otherwise, no directions can be passed which would be in the nature of controlling the board of the learned Trial Court.

25. Another issue raised by the learned counsel for the petitioner is that the bail bonds ought not to be accepted without the physical appearance of the accused persons. I find no merit in the said contention as well.

26. Pursuant to the various office orders issued by this Court, the litigants are permitted to appear through virtual modes. The Courts in given facts and circumstances, can compel the physical presence of a person. However, the discretion is left to the Court whether to insist on physical presence or to allow the person to appear through virtual mode. The same is however not dependent upon the insistence of the other party and discretion is left to the Court itself.

27. In view of the above, this Court does not consider it apposite to entertain the present petition at this stage and the petition is, therefore, dismissed.

AMIT MAHAJAN, J

APRIL 1, 2025