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

+ **BAIL APPLN. 1458/2025**

SHAILENDRA TIWARI

.....Petitioner

Through: Mr. J.P. Singh and Mr. Sandeep Singh, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for State.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

22.08.2025

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1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of Criminal Procedure, 1973²) seeks grant of regular bail in proceedings emanating from FIR No. 190/2020 under Sections 406/420/120-B of the Indian Penal Code, 1860³ registered at P.S. Economic Offences Wing. The Applicant's earlier application for regular bail was dismissed by the court of ASJ-04, North District, Rohini Courts, Delhi *vide* order dated 28th March, 2025.

2. Briefly stated, the case of the prosecution is as follows:

2.1. The present case was registered on the written complaint of one Ashok Kumar Shukla and other 28 aggrieved persons. In the complaint it

¹ "BNSS"

² "Cr.P.C"



was alleged that the Applicant, along with his wife, Vijay Laxmi Tiwari, incorporated a company under the name *M/s Tiwari Buildtech Pvt. Ltd.* in May 2014, projecting themselves as builders and developers. They set up offices in Swaroop Nagar, Delhi, published advertisements, and engaged agents to attract buyers for residential plots in various areas, including Swaroop Nagar (Delhi), Lampur (Narela), Loni (Ghaziabad), and Kharkhoda (Sonipat).

2.2. It is alleged that the accused induced several persons, mostly from the lower-income group, to book plots by portraying themselves as owners and developers. Prospective buyers paid substantial amounts towards booking, for which receipts and agreements to sell were executed by the accused. However, neither ownership rights were transferred nor plots handed over to the complainants, as the Applicant and his wife themselves had no lawful title or authority over the lands in question.

2.3. Investigation revealed that the Applicant received funds to the tune of approximately INR 2,05,06,829/- from 39 victims. These amounts were deposited in the company's HDFC Bank account, in which both the Applicant and his wife, Vijay Laxmi were authorized signatories. After collecting the money, they failed to deliver possession of the plots or return the funds, and subsequently absconded.

2.4. Multiple complaints were received, and several victims were examined. Their payment proofs were collected, corroborating the allegations. Efforts to apprehend the Applicant and his wife failed, and proceedings under Section 82 of Cr.P.C. were initiated. On 17th May, 2023, both the Applicant and his wife were declared Proclaimed Offenders. They

³ "IPC"



were later arrested on 12th July 2023, from Ahmedabad, Gujarat and produced before the Court.

2.5. During interrogation, it emerged that the Applicant personally executed agreements and issued acknowledgments of payment, despite not being the lawful owner of the properties. The evidence collected established his role in inducing the complainants, misappropriating their money, and vanishing thereafter.

2.6. Accordingly, a chargesheet was filed against the Applicant, Vijay Laxmi Tiwari, and their company *M/s Tiwari Buildtech Pvt. Ltd.* for offences under Sections 406/420/120B/174A of IPC. Charges have since been framed under Sections 420/120B/174A of IPC *vide* order dated 31st January, 2024.

3. Counsel for the Applicant urges the following grounds in support of his request for grant of bail:

3.1. The Applicant has clean antecedents with no prior criminal history. His implication in the present case is solely because of his position as a Director of *M/s Tiwari Buildtech Pvt. Ltd.* and not on account of any direct act or role attributable to him.

3.2. The investigation *qua* the Applicant stands concluded, and the chargesheet has been filed. Charges have also been framed by the Trial Court, and the matter is presently at the stage of prosecution evidence. The custody of the Applicant is, therefore, no more required for the purposes of investigation.

3.3. The FIR and chargesheet do not attribute any specific date, time, place, or transaction to the Applicant, nor is there any recovery or allegation of him preparing/using forged documents or personally receiving



money from the complainants; his role, at best, was only that of a mediator in the concerned property dealings.

3.4. Key prosecution witnesses, have not supported the Prosecution's case in their deposition before the Trial Court insofar as the involvement of the Applicant is concerned.

3.5. One of the co-accused, Vijay Laxmi, has already been enlarged on regular bail. On the principle of parity, the Applicant is also entitled to bail.

3.6. The Applicant has been in judicial custody since 12th July, 2023. Prolonged incarceration at this stage would amount to pre-trial punishment, contrary to settled principles of law.

4. *Per Contra*, Mr. Ajay Vikram Singh, APP for the State, opposes the bail application and submits the following:

4.1. The allegations against the Applicant are grave and serious in nature. Being the director of *M/s Tiwari Buildtech Pvt. Ltd.*, he induced innocent complainants to book plots through advertisements and allurement by agents.

4.2. The Applicant himself executed Agreements to Sell and issued payment acknowledgements on stamp papers to the victims, while falsely representing himself as the owner and in possession of the subject property, despite having no ownership rights whatsoever.

4.3. The Applicant and his company collected huge sums of money from the complainants under false promises and thereafter misappropriated the same. Such conduct discloses a clear intention to cheat and defraud, attracting serious penal consequences under Sections 420/120B/174A IPC.

4.4. After collecting the money, the Applicant absconded from the scene and was ultimately declared a Proclaimed Offender (PO) by the Court. His



past conduct demonstrates a high likelihood of absconding again if enlarged on bail.

5. The Court has duly considered the rival submissions and the material on record. Investigation is complete and the chargesheet has already been filed. As per the Nominal Roll, the Applicant has remained in custody for over two years and his jail conduct for the past one year, as well as overall, has been reported to be satisfactory. The Applicant also does not have no criminal antecedents and no other case is pending against him.

6. The allegations levelled against the Applicant and the manner in which the alleged acts of cheating were committed, are matters that can be tested only during the course of trial. At this stage, the Court refrains from recording any observation that may prejudice either party at trial.

7. It is also relevant to note that the co-accused, Vijay Laxmi Tiwari, has already been enlarged on bail by the Trial Court.

8. The apprehensions expressed by the State regarding the possibility of the Applicant absconding or tampering with witnesses can, in view of the Court, be effectively safeguarded by imposing stringent and appropriate conditions while granting bail.

9. It is well settled through a catena of judgments of the Supreme Court that the object of bail is neither punitive nor preventive, but to ensure the presence of the accused during trial.⁴ In light of the aforesaid principles and the facts noted hereinabove, the Court finds it appropriate to enlarge the Applicant on bail.

10. The Applicant is, therefore, directed to be released on bail on

⁴ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



furnishing a personal bond for a sum of INR 1,00,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. 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;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. 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;
- f. 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;
- g. The Applicant shall report to the concerned P.S. on first Friday of every month;

11. 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.

12. 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.



13. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

AUGUST 22, 2025/MK