



\$~47

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

+ **BAIL APPLN. 1667/2025 & CRL.M.A. 13217/2025**

MUNISH KUMARApplicant

Through: Mr. Joginder Tuli and Ms.
Joshini Tuli, Advs.

versus

STATE NCT OF DELHIRespondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State with SI
Amit Kumar, PS Dwarka
South.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

%

01.05.2025

1. The present application is filed seeking pre-arrest bail in FIR No. 141/2019 dated 10.03.2019, registered at Police Station Dwarka South, for offences under Sections 420/448/468/471/34 of the Indian Penal Code, 1860 (IPC).

2. Briefly stated, the FIR in the present case was registered pursuant to an allegation that the co-accused, namely, Vikas, unlawfully claimed ownership of the property being – Plot No. D-1/40, admeasuring 100 square yards, forming part of Khasra Nos. 29/18/1 and 29/19, situated in Village Palam, Palam Extension, Sector-7, Dwarka, New Delhi ('**subject property**'), owned by the complainant. It is alleged that forged documents were prepared in regard to the subject property and on the strength of the said documents, the co-accused 'Vikas' dispossessed the complainant.

3. In regard to the applicant, it is alleged that he witnessed



the execution of the forged documents.

4. The learned counsel for the applicant submits that the applicant has been unnecessarily implicated in the present case.

5. He submits that the applicant, even as per the case of the prosecution, has only witnessed the execution of the forged documents.

6. He submits that the alleged documents were executed way back in the year 2004 and after more than two decades, the applicant ought not to be subjected to custodial interrogation.

7. He further submits that the applicant is willing to join and cooperate with the investigation.

8. The law in regard to the grant of pre-arrest bail is well-settled. In the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra : (2011) 1 SCC 694**, the Hon'ble Apex Court dealt with the issue of pre-arrest bail, and the balance that needs to be maintained while granting the same to an accused and further laid down the factors that must be taken into consideration while dealing with pre-arrest bail and held as under:

“...112. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail:

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;

iii. The possibility of the applicant to flee from justice;

iv. The possibility of the accused's likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.



vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Penal Code, 1860, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail...”

9. The FIR was registered way back in the year 2019.
10. On being pointedly asked, it is informed that the co-accused ‘Vikas’ was arrested on 07.03.2025 and has been admitted on bail by the order dated 10.03.2025 passed by the learned Trial Court.
11. When the beneficiary of the alleged forgery has already been admitted on bail, no purpose would be served by subjecting the applicant for custodial interrogation.
12. It is not in doubt that order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined the investigation and is not likely to abscond, the custodial interrogation should be avoided.
13. The purpose of custodial interrogation is to aid the



investigation and is not punitive. In the opinion of this Court, no purpose would be served by subjecting the applicants to custodial interrogation.

14. No apprehension has been expressed that the applicants will evade the trial. Even otherwise, any apprehension regarding the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

15. In view of the above, when the alleged forged documents were executed way back in the year 2004, and when the beneficiary of the alleged forgery has already been admitted on bail by the order which has not been challenged by the prosecution, in the opinion of this Court, the applicant is not required for custodial interrogation. Therefore, it is directed that in the event of arrest, the applicant 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 concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicant shall not leave the country without the prior permission of the learned Trial Court;
- c. 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;
- d. The applicant shall appear before the learned 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 give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

16. It is clarified that the observations made in the present order are only for the purpose of considering 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.

17. The present bail application is allowed in the aforementioned terms. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

MAY 1, 2025
'KDK'