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

\+ BAIL APPLN. 2128/2025 & CRL.M.A. 17410/2025

VISHAL CHAUDHARY .....Petitioner

Through: Mr. Anoop Prakash Awasthi (AOR) with Mr. Aman Verma and Mr. Utkarsh Bhatt, Advocates.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Amit Ahlawat, APP with Ms. Pankhuri Khandpur, Advocate.
SI Sargam Bhandari, P.S. Adarsh Nagar.
Mr. Dilip Garg, Mr. Dhruv Gupta and Mr. Harshit Gupta, Advocates for complainant.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 30.05.2025

1. The present application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023,[1] (formerly, Section 438 of the Code of Criminal Procedure, 1973[2]) seeks pre-arrest bail in proceedings emanating from FIR No. 801/2022 dated 7th August, 2022 registered under Sections 406/420/467/468/471/120B of the Indian Penal Code, 1860[3] at P.S. Adarsh Nagar.

2. A copy of the status report has been handed over across the Board and

[1] "BNSS"
[2] "Cr.P.C"
[3] "IPC"

is taken on record.

3. Briefly, the case of the prosecution is as follows:

3.1. The present FIR was registered pursuant to a complaint filed by Deepak Garg, who stated that he is one of the Directors of RD Retail India Pvt. Ltd., a company engaged in the trading and supply of FMCG and related products. He asserted that he had supplied Cigarettes, Pan Masala, Cosmetic Items, and Gift Packs to Vishal Chaudhary (the Applicant), through his firm/company Outdoor Solutions. It was alleged that partial payments were received from the Applicant and a running account was being maintained. The Complainant continued to supply goods to the Applicant until 26th October, 2020. However, the Applicant after making initial payments have ceased, prompting the Complainant to demand settlement of substantial outstanding dues, which amounted to INR 1,55,38,576/- as on 26th October, 2020.

3.2. The Complainant stated that, despite multiple attempts to contact the Applicant, he continued to request time, citing delays due to the outbreak of COVID-19. Upon being pressed for payment, the Applicant allegedly claimed that goods worth more than INR 2 Crores had been supplied to the Complainant in May, 2020, and disclosed corresponding Bill Numbers. Upon verification of those Bill Numbers on the GST Portal, the Complainant discovered that the bills were allegedly forged and fabricated, as neither GST Input had ever been claimed against them, nor had the goods in question ever been supplied.

3.3. The Applicant had supplied goods to the Complainant in February, 2019, which were valued at approximately INR 1,06,20,000/-, however, these goods were entirely damaged. Despite being informed by the

Complainant, the Applicant failed to retrieve the damaged goods. It is alleged that, in an attempt to offset the outstanding amount, the Applicant subsequently generated forged and fabricated bills with the intent to further deceive the Complainant. The Complainant alleges that he has been cheated to the extent of INR 1,55,38,576/-.

3.4. A report was obtained from the GST Department regarding the alleged forged bills. As per the GST Department's reply, no e-way bills were found corresponding to the invoices uploaded on the GST portal.

4. Counsel for Applicant urges the following in support of the Applicant's request for bail:

4.1. The Applicant had continuous business transactions with the Complainant, and both parties maintained a running account. The lodging of FIR is an abuse of the legal process, aimed at coercing recovery of alleged dues by misusing the State machinery, effectively treating the Applicant as an unpaid seller.

4.2. The FIR has been lodged after an inordinate delay of three years from the date of the alleged incident, which occurred in February, 2019.

4.3. Even if the allegations in the FIR are accepted at face value, the dispute is essentially civil in nature which is being given a criminal colour. In the FIR, it is alleged that the goods supplied by the Applicant were defective and damaged. In such circumstances, the appropriate remedy would lie before a civil court rather than initiating criminal proceedings. The FIR has been lodged solely with the intent to pressurize the Applicant into making payments to the Complainant.

4.4. Despite the registration of the FIR, the Complainant continued to maintain business relations with the Applicant up until July, 2024.

4.5. The Applicant has duly complied with the notices issued to him for joining investigation and has duly appeared before the Investigating Officer on several occasions and therefore, he is not at risk for evading trial.

5. *Per contra*, Mr. Amit Ahlawat, APP for State, strongly opposes the Applicant's request. He submits that the Applicant's implication is not premised on mere non-payment for goods, but on grave allegations of cheating and forgery. It is alleged that the Applicant generated forged GST invoices and uploaded them on the GST portal without actual delivery of goods. These fictitious invoices, amounting to several crores, were used to reflect non-existent transactions, thereby defrauding not only the Complainant but also the statutory authorities. The Complainant has categorically denied receiving any goods and no evidence of delivery or transportation has been furnished. Mr. Ahlawat further contends that the Applicant has failed to join investigation and has not appeared despite multiple notices. Custodial interrogation is stated to be necessary for the recovery of the original forged bills. It is also pointed out that the Applicant's earlier application for bail was dismissed by the Sessions Court by order dated 10th March, 2025.

6. The Court has considered the afore-noted facts and contentions. At the outset, it must be acknowledged that the broad proposition advanced by the Applicant, that a civil dispute ought not to be dressed up as a criminal case in the absence of *mens rea* or criminal intent, is well settled in law. However, such a proposition, though legally sound, is not of universal application and must be examined in the context of the facts and allegations in each case.

7. The present case cannot be characterized as a mere civil dispute. It is

not a case where a liability arose merely due to default in payment against admitted and undisputed supplies. Rather, the Complainant alleges that the Applicant, after having defaulted on a significant outstanding amount of INR 1,55,38,576/-, attempted to offset this liability by generating forged and fabricated GST invoices for fictitious supplies allegedly made in May, 2020, amounting to over INR 2 Crores. The Complainant has also alleged that the goods previously supplied by the Applicant in February, 2019, worth approximately INR 1,06,20,000/-, were completely damaged and continue to lie in his godown. Despite repeated requests, the Applicant failed to take them back. *Prima facie*, the subsequent preparation of allegedly forged GST invoices, in this context, assumes significance and reflects a calculated attempt to fabricate documents to falsely adjust liabilities and thereby cheat not only the Complainant but also the statutory authorities.

8. It must also be noted that while the delay in lodging a complaint is a relevant factor, it is not determinative in every case. In commercial dealings where parties may continue interactions in the hope of amicable resolution, delay by itself cannot be seen as fatal to prosecution, particularly when the delay is plausibly explained. In the present matter, only after discovering the forged invoices on the GST portal, the complaint was made. The mere passage of time before filing the FIR does not dilute the gravity of the allegations when viewed in light of the purported fabrication of documents and the scale of the alleged fraud.

9. At this stage, the Court is not required to conclusively determine the veracity of the allegations. The nature of the allegations, involving deliberate and systematic forgery, cannot be brushed aside as a mere commercial dispute. Thus, the request for custodial interrogation by the

State, is justified in light of the need to recover the original forged documents, ascertain the extent of the conspiracy, and uncover the *modus operandi* involved in the preparation and uploading of such invoices.

10. Thus, in the opinion of the Court, the Applicant's request for pre-arrest bail, cannot be accepted.

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. Accordingly, the present application is dismissed along with pending application.

SANJEEV NARULA, J

MAY 30, 2025
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