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

\+ **<u>BAIL APPLN. 2144/2024 & CRL.M.A. 2728/2025</u>**

VARUN VERMA .....Applicant

Through: Adv. H.S. Uppal, Adv. Shashi Kaushik & Adv. Narender Kumar.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Ritesh Kumar Bahri, APP for the State along with Ms. Divya Yadav & Mr. Lalit Kumar Luthra, Advs.
SI Ravi Poonia, PS Dayalpur.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

<u>O R D E R</u>

% **07.05.2025**

1. The present application is filed seeking pre-arrest bail in No. 312/2024 registered at Police Station Dayalpur, New Delhi under Sections 420/467/468/471/120B/34 of the Indian Penal Code, 1860 (‘**IPC**’).

2. Briefly stated, the case arises from a complaint filed by Mr. Danish/complainant, who alleges that he was induced by co-accused Ankur Verma—introduced as an international garments exporter—to invest in an export venture. The complainant was persuaded to make payments between January 2022 and September 2022, amounting to ₹56,86,000, which were transferred to the account of ‘Aksh Collection’—a proprietorship concern of the present applicant. Additional payments totalling nearly ₹69,53,897 were made into various accounts under false assurances of returns from garment exports.

3. The grievance of the complainant is that despite repeated assurances, the promised goods were never delivered. It is further alleged that the consignment, when sent, was delivered to a third party, and the documents provided (including bills of lading) were either forged or misleading. It is also alleged that after evasive conduct, the applicant handed over two cheques totalling ₹40 lakhs in November 2022, which were meant as security.

4. The learned counsel for the applicant submits that the dispute stems from a commercial relationship between the parties dating back to 2021. He relies on the ledger account and annexures on record to assert that the complainant had received ₹25 lakhs initially and further ₹30,97,000 through banking channels. It is also pointed out that civil suits—one for recovery and one in the nature of a commercial dispute—have been instituted. The learned counsel also asserts that the subject transaction is contractual in nature and that the complaint is retaliatory in light of the civil suit.

5. The learned Additional Public Prosecutor for the State submits that although the applicant has joined investigation, his responses have been evasive and unhelpful in advancing the inquiry. The learned APP submits that custodial interrogation is necessary, considering the alleged forgery, misrepresentation, and diversion of funds.

6. The learned counsel for the complainant highlights that one of the accused, Ankur Verma, has absconded, and the goods that were purportedly imported were never delivered to the complainant. It is contended that forged documents were used to mislead not just the complainant but also the authorities.

7. 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. ....*
> *(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 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 the 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.”*
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> (emphasis supplied)

8. On careful consideration of the submissions and material placed on record, it emerges that the parties were engaged in financial dealings over an extended period, dating back to 2021. The transaction involved considerable monetary transfers, some of which were purportedly in the nature of friendly loans and others for commercial purposes.

9. The existence of two civil suits—one commercial and one for recovery of amounts paid indicates that the financial relationship was not merely incidental but structured, with contractual underpinnings. Pertinently, the applicant has placed documents including bank statements, transport documents, and invoices, showing that transactions did occur.

10. While the allegations are serious and involve an element of deception, the core of the dispute appears to be civil in nature, with competing versions on fulfillment of the underlying obligations. The evidence at this stage is documentary. The petitioner has not been shown to have absconded or tampered with evidence, and has participated in the proceedings.

11. In these circumstances, and considering that the co-accused Surender Verma has already been granted pre-arrest bail by the learned Trial Court, there appears no cogent reason to deny the same relief to the applicant.

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. The applicant, by order dated 24.06.2024, was granted protection, subject to him joining and cooperating with the investigation. It is undisputed that the applicant had, pursuant thereto, joined the investigation. The evidence, at this stage, seems to be documentary in nature. Status report refers certain part of interrogation to contend that the applicant did not cooperate and was evasive. I haver perused the case diary, not supporting the case of prosecution does not amount to non-cooperation with the investigation [Ref. ***Bijender v State of Haryana*** **: Special Leave to Appeal (Crl.)No. 1079/2024)**, decided on 06.03.2024].

16. Considering the totality of circumstances, I am of the view that the custodial interrogation of the applicant is not required. It is directed that in the event of arrest, the applicant be released on bail on furnishing a personal bond for a sum of ₹50,000/- 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 will not leave the boundaries of the country without the permission of the learned Trial Court;

c. The applicant shall not contact the complainant / 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 phones switched on at all times;

e. The applicant shall provide the address of his residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

17. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

18. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

19. The bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

MAY 7, 2025