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

\+ BAIL APPLN. 2213/2025

MANISH KUMAR .....Petitioner

Through: Mr. Pankaj Sinha, Mr. Rahul Kumar, Ms. Garima, Mr. Sunil Kumar Tiwari, Ms. Khushboo Chaudhary and Ms. Humaira Saalam, Advocates.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Mukesh Kumar, APP for State with Mr. Rahul Kumar, Insp., PS-South Avenue.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% 03.07.2025

1. The present application filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023[1] (corresponding to Section 438 of the Code of Criminal Procedure, 1973[2]) seeks pre-arrest bail in FIR No. 15/2022 dated 25th April, 2022, registered under Section 420 of the Indian Penal Code, 1860[3] as well as under Section 66 of the Information Technology Act, 2000[4] at P.S. South Avenue, Delhi.

2. The case of prosecution is as follows:

2.1. A complaint was filed by Ms. Amrit Versha Kohli, Secretary of the Engineer-in-Chief's Branch Co-operative Thrift and Credit Society Ltd.[5], New Delhi. She stated that the Applicant, Manish Kumar, was appointed as a Clerk in August 2020 and was entrusted with responsibilities including

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[1] "BNSS"
[2] "CrPC"
[3] "IPC"
[4] "IT Act"

cash handling, accounts management, and overseeing banking transactions. It is alleged that during his tenure from 1st August, 2020 to 28th September, 2021, the Applicant manipulated the society's accounts by tampering with computer data for personal financial gain. He is further accused of misappropriating sensitive financial information from the society's systems to conceal these manipulations, with the potential intent of using such data for blackmail or other misuse. According to the complaint, these actions resulted in substantial financial losses and compromised the integrity of the society's operations.

2.2. On 28th September 2021, at around 10:30 AM, the accused informed the Complainant that all financial data on the said computer had vanished automatically, rendering the staff unable to perform any transactions. The said computer, which contained sensitive data pertaining to transaction records, loan repayments, salary disbursement details, and day-to-day expenses, was exclusively operated by the Applicant. After receiving this information, the Complainant immediately rushed to the society's office, where the Applicant had already summoned the society's computer programmer. Following a detailed analysis, the programmer informed the Complainant that the backup data had been deliberately manipulated and subsequently deleted from both the primary system and backup drives, rendering it irrecoverable and thereby obstructing detection of prior financial irregularities

2.3. On 29th September 2021, the Applicant failed to report to work. When contacted by the Complainant, he did not respond and has remained absent since that date. Further, his mobile phone has been switched off, reinforcing

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[5] "Society"

the suspicion that he deliberately absconded after securing or transferring sensitive data illicitly before its deletion. An initial audit conducted thereafter revealed financial discrepancies amounting to INR 2.75 lakhs, prompting a more detailed interim audit to assess the full extent of the losses.

2.4. During the investigation, the Complainant provided records of 30 unauthorized transactions from the society's bank account (A/c No. xxxxxxx746) verified against individual members' passbooks. It was revealed that approximately INR 81 lakhs had been fraudulently disbursed through these transactions on different dates to eight distinct bank accounts. Crucially, none of these recipients were verified members of the society. Most account holders were residents of Bulandshahr, Uttar Pradesh, and several were close associates or relatives of the Applicant – pertinently, one Ankur Chaudhary, identified as his real brother-in-law.

2.5. After tracing their addresses, notices under Section 41A of CrPC were issued to the all the account holders. Several individuals – including Jitender Kumar Chaudhary, Rajesh Kumar, Ankur, Yash, and Shokendra Chaudhary – appeared and joined the investigation. During questioning, they admitted that their bank accounts had been used by the Applicant to channel fraudulent loan disbursements, and they further disclosed that these funds were subsequently transferred to the Applicant's and his wife Ms. Anjali's bank accounts. Thereafter, she also joined the investigation, however, she has not been cooperating fully with the investigation; despite being served a notice under Section 41A of CrPC to appear on 17^{th} May, 2025, she failed to comply. Analysis of the Applicant's and Anjali's bank accounts revealed that the Applicant was the ultimate beneficiary of the misappropriated funds.

In view of these findings, additional charges under Sections 468, 471, 477A, and 120B of the Indian Penal Code were also invoked.

3. Counsel for the Applicant makes the following submissions seeking pre-arrest bail:

3.1. The alleged offences pertain to the period between August 2020 and September 2021, with the last alleged act occurring on 28th September, 2021. However, the FIR in question was registered only on 24th April, 2022, after an unexplained delay of more than six months, which casts doubt on the bona fides of the prosecution.

3.2. The Applicant's previous bail application was rejected by the Sessions Court solely on the ground that custodial interrogation is required to "unearth the whole conspiracy." However, the impugned order fails to articulate any specific aspect necessitating custodial interrogation at this belated stage, particularly when nearly three years have elapsed since the registration of the FIR. The order does not identify any outstanding recoveries or critical lines of inquiry that would justify such a step now.

3.3. The Applicant has cooperated with the investigation from its inception, save for his inability to respond to three notices issued during April–May 2024. It is argued that mere non-response to a few summons notices, by itself, cannot form a legitimate ground for ordering custodial interrogation, especially when the Applicant has unequivocally expressed his readiness to appear and assist the investigation at any stage.

3.4. It is submitted that mere proximity or familial relationship with the alleged recipients of the diverted funds cannot, by itself, establish criminal conspiracy. In the absence of direct evidence linking the Applicant to such a conspiracy, the allegations remain merely speculative.

3.5. Relying on the judgment in ***Joginder Kumar v. State of U.P***[6], it is argued that denial of anticipatory bail, particularly in cases where custodial interrogation is neither shown to be essential nor justified by specific reasons, amounts to a violation of the Applicant's right to life and personal liberty under Article 21 of the Constitution of India.

3.6. The Sessions Court order does not record any apprehension that the Applicant may abscond, tamper with evidence, or threaten witnesses. The Applicant has strong roots in society, is the sole breadwinner for his family, and has consistently expressed his willingness to participate in the investigation, as and when required.

4. On the other hand, Mr. Mukesh Kumar, APP for the State, strongly opposes the present application advancing the following submissions:

4.1. The allegations pertain to serious economic offences involving large-scale financial fraud, cheating, criminal breach of trust, and criminal conspiracy, resulting in significant monetary losses to the Complainant society. Such offences undermine public trust and have broader societal implications beyond the immediate financial harm.

4.2. Despite being afforded repeated opportunities, the Applicant has demonstrably failed to cooperate with the investigation. Notices under Section 41A of the Code of Criminal Procedure were duly issued on 10th April 2025, 28th April 2025, and 2nd May 2025, directing him to join the investigation; however, he wilfully chose not to comply, indicating a deliberate evasion of the investigative process.

4.3. Following the Applicant's non-cooperation and the dismissal of his anticipatory bail application by the Sessions Court, a Non Bailable Warrant

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6 . (1994) 4 SCC 260

was obtained against him on 19th May, 2025 to secure his presence in the investigation.

4.4. A substantial portion of the misappropriated funds was transferred into bank accounts belonging to the Applicant's close relatives, including his wife. This strongly indicates the Applicant's active involvement in the conspiracy and diversion of funds.

4.5. Custodial interrogation of the Applicant is necessary to trace the misappropriated funds and fully uncover the extent of the criminal conspiracy, including the involvement of other parties.

4.6. The opposition to bail is not premised on vague or unsubstantiated allegations. The investigation has revealed substantial material evidence, including bank statements, transaction records examined by the Investigating Officer, and the statements of Jitender Kumar Chaudhary, Rajesh Kumar, Ankur, Yash, and Shokendra Chaudhary – all of whom have unequivocally confirmed the Applicant's role in orchestrating and routing the fraudulent transactions.

5. The Court has considered the aforenoted contentions and has perused the record. The allegations against the Applicant are of a grave and serious nature, involving allegations of large-scale financial fraud, cheating, and criminal conspiracy, resulting in a significant loss to the society. The nature and scale of the offence *prima facie* represents a need for a thorough investigation.

6. The Supreme Court in Balchand ***Jain v. State of M.P.***[7]***,*** the power of granting anticipatory bail is "somewhat extraordinary" and is must be exercised sparingly, where false implication is suspected, the accusation

appears frivolous, or the applicant is demonstrably unlikely to abscond or abuse the liberty if so granted. The relevant portion of the judgement is as follows:

> *".....We do not find in this section the words "anticipatory bail", but that is clearly the subject with which the section deals.* ***In fact "anticipatory bail" is a misnomer. It is not as if bail is presently granted by the court in anticipation of arrest. When the court grants "anticipatory bail", what it does is to make an order that in the event of arrest, a person shall be released on bail. Manifestly there is no question of release on bail unless a person is arrested and, therefore, it is only on arrest that the order granting "anticipatory bail" becomes operative. Now, this power of granting "anticipatory bail" is somewhat extraordinary in character and it is only in exceptional cases where it appears that a person might be falsely implicated, or a frivolous case might be launched against him, or "there are reasonable grounds for holding that a person accused of an offence is not likely to abscond, or otherwise misuse his liberty while on bail" that such power is to be exercised****. And this power being rather of an unusual nature, it is entrusted only to the higher echelons of judicial service, namely, a Court of Session and the High Court. It is a power exercisable in case of an anticipated accusation of non-bailable offence and there is no limitation as to the category of non-bailable offence in respect of which the power can be exercised by the appropriate court."*

[Emphasis Supplied]

7. The investigation conducted by the IO has yielded material evidence, including bank statements, account records, and statements of recipients of the misappropriated funds, some of whom have directly implicated the Applicant. The investigation has further revealed that substantial amounts of the misappropriated funds were transferred into the bank accounts of some of Applicant's close relatives, including his wife Ms. Anjali.

8. The Applicant's argument regarding the delay in registration of the FIR does not, in the present factual context, dilute the seriousness of the

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[7] (1976) 4 SCC 572

allegations or cast doubt on the bona fides of the prosecution. In economic offences of this nature, involving complex financial transactions and data tampering, the detection and initial inquiry often require substantial time. The Society's management, before approaching the authorities, undertook an interim audit to ascertain the extent of discrepancies, and only thereafter lodged the formal complaint. Such preparatory steps are not uncommon and cannot be construed as an attempt to fabricate or embellish allegations.

9. In economic offences, custodial interrogation serves a vital purpose: it facilitates the tracing and recovery of misappropriated funds, enables confrontation with co-accused and accomplices, and helps uncover the full scope of the conspiracy. The Supreme Court in ***Y.S. Jagan Mohan Reddy v. CBI***[8] emphasized that economic offences constitute a class apart as they pose a serious threat to the financial health of society. Such kind of cases need to be visited with a different approach when considering an application for bail, particularly where custodial interrogation is essential for an effective investigation. Thus, State is justified in insisting on custodial interrogation.

10. Moreover, the Applicant's repeated non-cooperation is a crucial factor. Notices under Section 41A CrPC were issued on three occasions which the Applicant disregarded. His conduct of remaining untraceable, further strengthens the apprehension of evasion and deliberate obstruction of the investigation. The argument that the Applicant has cooperated lacks substance when examined against the record of non-compliance and evasion. Mere willingness expressed in submissions before the Court cannot substitute actual, demonstrable cooperation during the investigation process.

Additionally, the close financial links between the Applicant and the recipients of the fraudulent transfers, several of whom are close relatives, including his wife, underscore his central role in orchestrating the misappropriation scheme. The statements of multiple account holders, who have admitted to routing funds into his and his wife's accounts, further corroborate his active involvement.

11. In view of the facts and circumstances of the case, the complexity of the financial transaction involved and the need to trace the siphoned funds, there exists a *prima facie* requirement for custodial interrogation of the Applicant, for an effective investigation and uncovering the larger conspiracy. The grant of pre-arrest bail, at this stage, may pose a significant risk of the Applicant absconding or evading due process of law. Accordingly, the application seeking pre-arrest bail is declined.

12. Needless to state, any observations concerning the merits of the case are solely for the purpose of deciding the question of grant of bail and shall not be construed as an expression of opinion on the merits of the case

SANJEEV NARULA, J

JULY 3, 2025
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[8] (2013) 7 SCC 439