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

\+ BAIL APPLN. 2399/2025

AMIT KUMAR MISHRA .....Petitioner

Through: Mr. Abhinan Kaushik, Mr. Rishabh Attri and Smt. Rina Kumari, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Richa Dhawan, APP for the State.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

O R D E R

% **10.09.2025**

1. The applicant, in custody since 14.05.2025 (3 months and 29 days), seeks indulgence of this Court for grant of bail during the pendency of trial in criminal proceedings arising out of FIR No. 177/2025, dated 30.04.2025, registered at Police Station New Friend Colony, Delhi. The FIR records alleged offences under Sections 316(5), 318(4), 336(3), 340(1) and 61(2) of the BNS.

2. Briefly speaking, per FIR, Krishan Kumar Nareda, Executive Director & CEO of Shriniwasa Roadways Pvt. Ltd., lodged a complaint alleging cheating and fraud of Rs. 2,25,09,650/-.

2.1 In September 2024, Deepak Bhardwaj fraudulently joined the company claiming links with reputed firms such as Fluxlite Co. Ltd., Brystar Mep India Ltd., and RKY Infracom Pvt. Ltd.

2.2 He, along with Nitesh Kumar alias Yogesh Kumar and others, created fake email IDs, forged documents, and induced the complainant to release large payments to vehicle suppliers like Ajay Singh Transport, IM Solution, and Kenco Logistics Pvt. Ltd., all of whom were part of the conspiracy.

2.3 While only Rs. 60.48 lakh was received against total invoices of Rs. 2.85 crore, the remaining dues were defaulted. Investigations revealed that “Fluxlite Co.” introduced by Bhardwaj was a fake proprietorship of Nitesh Kumar, and forged NEFT slips and cheques were also used to mislead the complainant.

2.4 The fraud was further confirmed when Hyderabad Police informed about FIR No. 126/2024 registered against Nitesh Kumar and others. The accused persons—Deepak Bhardwaj, Nitesh Kumar @ Yogesh Kumar, Ajay Singh, Shrikant Pathak, IM Solution, Kenco Logistics Pvt. Ltd., Amit Kumar Mishra, Sanjay, and RKY Infracom acted in conspiracy to cheat the company.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would argue on lines of grounds taken in the petition *inter alia* urging as below:-

4.1 The applicant/accused has no nexus whatsoever with the allegations in the FIR. The allegations are demonstrably false, concocted, and driven by mala fide intent of the complainant in collusion with certain police officials.

4.2 Neither the FIR nor the investigation attributes any direct act, omission, or deliberate wrongdoing to the applicant. Offences under Sections 316, 318, and 340 BNSS require clear mens rea and dishonest intention—elements completely absent in this case.

4.3 Investigation stands concluded. Nothing incriminating has been recovered from the applicant’s possession or at his instance. No admissible evidence connects him to the alleged offence.

4.4 Mere receipt and transfer of payments, in absence of intent to misappropriate, do not create criminal liability. Without fraudulent conduct, mens rea, or personal gain, no offence is made out. [P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24].

4.5 The FIR makes omnibus allegations against 11 persons without attributing specific roles. It is settled law that bail cannot be denied on vague or general allegations, particularly where the accused has an unblemished record. [Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273].

4.6 The fact that co-accused Ajay Singh and Nitesh Kumar are absconding establishes their primary culpability. The applicant, in contrast, has fully cooperated with investigation and remains available for trial.

4.7 The applicant is the sole breadwinner for his family, supporting aged parents and dependent siblings. His incarceration is causing irreparable hardship—loss of livelihood, disruption of education, and denial of medical needs to dependents.

4.8 The applicant suffers from a chronic medical condition, Obstructive Sleep Apnea, requiring CPAP therapy and continuous clinical supervision—facilities unavailable in jail. Medical certificates from Kalyani Hospital (Annexure P-5) substantiate this.

4.9 The applicant undertakes to remain within jurisdiction, attend all trial proceedings, and will neither tamper with evidence nor influence witnesses.

4.10 The applicant, not having been convicted, is entitled to the presumption of innocence. Pre-trial incarceration cannot be equated with punishment.

4.11 The applicant is ready to furnish sound surety and abide by any condition this Court may impose. With no previous conviction and a good reputation in society, further custody serves no purpose.

5. The learned counsel for the complainant and the learned APP for the State jointly oppose the bail application on the ground that the complainant company has suffered substantial wrongful loss. It is alleged that the accused, through a calculated conspiracy, cheated the company by preparing forged documents and using them as genuine. The accused is described as a habitual offender with continuing criminal propensity. Furthermore, co-accused Nitesh Kumar @ Yogesh Kumar remains absconding, and the release of the present accused on bail may obstruct the investigation and impede efforts to apprehend the absconding co-accused.

5.1 They also contend that there exists a strong apprehension that, if released on bail, the accused may intimidate or influence witnesses. In view of the seriousness of the charges, their economic nature, and the past conduct of the accused, they thus oppose the grant of bail to applicant herein.

6. I have heard the submissions of both sides and perused the case file. While certain arguments raised by the learned counsel for the applicant regarding his non-culpability may have some merit, but those can only be adjudicated during the trial. However, at this stage, I am of the considered view that the applicant deserves to be released on bail during the pendency of the proceedings, for the following reasons.

7. The applicant has already been in custody for 3 months and 29 days. Allegations are of cheating and criminal breach of trust which prima facie

are antithetical. The prolonged pre-trial detention, coupled with the delay in proceedings, further strengthens the case for granting bail.

8. As regards the apprehension of tampering with evidence, it is noteworthy that all material evidence qua applicant has already been seized and is in the secure custody of the prosecution. Such apprehension is therefore illusory. The primary purpose of bail is to secure the presence of the accused during trial, and there is nothing on record to suggest that the applicant would abscond, interfere with evidence, or influence witnesses. He has deep roots in society, no criminal antecedents, and thus is not a flight risk.

9. The applicant is the sole breadwinner for his family. His custody is also causing severe hardship to his aged parents and dependent siblings. He also suffers from Obstructive Sleep Apnea, requiring CPAP therapy and medical supervision, which cannot be adequately managed in jail.

10. As an upshot and taking wholesome view of the matter, the applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

11. Nothing observed herein above shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application.

12. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 10, 2025/acm