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

\+ BAIL APPLN. 2527/2025

MOHD. ATHAR .....Petitioner

Through: Mr. Karan Verma, Ms. Nayan Maggo, Mr. Yuvraj Singh Advocate Mr. Yash Arora, Advocates

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Ajay Vikram Singh, APP for State along with SI Shivam Sharma, PS Preet Vihar

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% **18.08.2025**

1. The present petition filed under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023[1] (corresponding to Section 439 read with 482 of the Code of Criminal Procedure, 1973[2]) seeks regular bail in FIR No. 355/2024 dated 20th November, 2024, registered under Section 316(2) of the Bharatiya Nyaya Sanhita, 2023[3] at P.S. Preet Vihar, Delhi.

Factual Matrix

2. The case of the prosecution, in brief, is as follows:

2.1. Sonu (the Complainant), engaged in the scrap copper trade, alleges that he came into contact with one Dinesh (later identified as Md. Athar, the present Applicant), proprietor of "Ma Metals", through India Mart regarding

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[1] "BNSS"
[2] "CrPC"

a proposed transaction for the purchase of five tons of copper wire. A meeting was held at the Applicant's office in Kale Ram Chamber on 14th November, 2024, attended by the Complainant, his business partners, Md. Ahsan, and the Applicant. During the meeting, the Complainant and his partners agreed to purchase five tons of copper wire. However, the Applicant stated that he could not arrange the material on the same day and undertook to supply it the following day.

2.2. On 15th November, 2024, the Applicant informed the Complainant that the copper wire would be procured from a company in Mandoli. Upon visiting the stated address, the Complainant discovered that no such company existed. When questioned the next day, the Applicant gave the Complainant the contact number of one Ankit. As Ankit could not be reached, the Applicant provided another contact, Mukesh, assuring that he would arrange the supply. Mukesh informed the Complainant that a truck carrying the goods was on its way. Upon the Complainant's insistence that the delivery be made directly from the warehouse, Mukesh, accompanied by an associate named Paras, facilitated the loading of goods from a warehouse owned by Ayyub in Mustafabad. After repeated delays, approximately 90% of the agreed quantity of copper scrap was eventually loaded into a truck hired by the Complainant in his presence and that of his business partners.

2.3. The Complainant allegedly handed over a cash payment of INR 40.79 lakhs to the Applicant at the Kale Ram Chamber office, after about 90% of the material had been loaded. Following receipt of payment, Mukesh assured that the goods could now be collected. However, warehouse owner Ayyub refused to release the consignment, asserting that he had not received

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[3] "BNS"

any payment from the Applicant, Mukesh, or Paras.

2.4. The Complainant claims that subsequent attempts to contact the Applicant failed, as his phone was switched off. It is further alleged that the Applicant and Md. Ahsan absconded with the money in a Scorpio vehicle bearing a forged temporary number plate ending in 8253F, under the pretext of completing an RTGS transfer. Based on these allegations, the present FIR was registered.

2.5. During investigation, police obtained the rent agreement for the Kale Ram Chamber office. The documents identified one Imamul Haque as the tenant. Upon being shown the Aadhaar card and photograph attached with the agreement, the Complainant and his associates identified him as "Dinesh," i.e., the present Applicant.

2.6. CCTV footage from the vicinity of Kale Ram Chamber corroborated the Complainant's version to the extent that a Scorpio car with the stated temporary number plate was seen parked there. Subsequent inquiries revealed that the number plate was forged and that the vehicle was being used by the Applicant.

2.7. Call Detail Records of the accused persons were analysed, following which a raid was conducted. The Applicant and Md. Ahsan were taken into custody on 27^{th} November, 2024. Further investigation disclosed that the real identity of "Dinesh @ Imamul Haque" was in fact Md. Athar.

2.8. After completion of the investigation, a chargesheet has been filed *qua* the Applicant under Sections 316(2), 318(4), 336(3), 340(2), 345(3), 61, 317(2) and 3(5) of BNS. Further, the matter is now listed before the Trial Court in August, 2025 for framing of charge.

<u>Contentions of the Applicant</u>

3. Counsel for the Applicant makes the following submissions requesting grant of bail:

3.1. The Applicant has been falsely implicated in the present FIR. The Complainant, along with his partners, has failed to produce any document, such as purchase order, invoice, GST record, balance sheet, or financial statement, to substantiate the alleged cash transaction of copper scrap.

3.2. The Applicant has been in custody since 27th November, 2024, merely on the basis of uncorroborated allegations. No credible or cogent evidence links him to the alleged offence, and his prolonged incarceration highlights misuse of criminal law as a tool of harassment.

3.3. The prosecution's story about a Scorpio with forged number plates is merely an afterthought. The CCTV footage relied upon is from an unrelated location and has no nexus to the alleged incident. The registered owner of the said vehicle has no connection with the case. The alleged recovery of another Scorpio and forged number plates suffers from serious infirmities, as no videography was conducted, which is in violation of Section 105 of BNSS, 2023 and other judicial mandates.

3.4. The Applicant is not a beneficiary of the alleged offence. No recovery of money has been made from him, nor is any recovery pending at his instance.

3.5. Without prejudice to the above, the offences alleged carry a maximum punishment of seven years, hence the guidelines in ***Arnesh Kumar v. State of Bihar***[4] are squarely applicable. Further, the grounds of arrest were never furnished to the Applicant or his family as mandated, rendering his arrest unlawful.

3.6. It is also pertinent to note that the co-accused, Mohd. Ahsan, has already been granted bail by this Court *vide* order dated 26th May, 2025, in BAIL APPLN. 1528/2025. The principle of parity, therefore, entitles the present Applicant to the same relief.

3.7. The investigation stands concluded and the chargesheet has been filed. In such circumstances, it is urged that his continued detention serves no purpose, and amounts to punitive pre-trial imprisonment, in violation of his night to personal liberty under Article 21 of the Constitution.

Contentions of the State

4. Mr. Ajay Vikram Singh, APP for the State, on the other hand opposes the bail application and submits as follows:

4.1. The role of the present Applicant is far graver than that of the co-accused, Md. Ahsan, who has been granted bail. Unlike the co-accused, the Applicant is the principal perpetrator of the alleged offence.

4.2. It is argued that the Applicant misled the Complainant by assuming a fake identity and thereby caused unlawful gain. He allegedly executed a forged rent agreement for the office premises by using a false Aadhaar card, on which his photograph was pasted to impersonate one Imamul Haque. In this manner, the Applicant not only created a false identity but also used it to set up the office where the conspiracy was hatched.

4.3. The Applicant was also responsible for fabricating a false number plate, which was later recovered from co-accused Mohd. Ahsan. At the joint pointing-out of the accused persons, a total of INR 9 lakhs was recovered, further demonstrating the Applicant's active role in the alleged conspiracy.

4.4. It is further submitted that the Call Detail Records (CDR) place the

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[4] (2014) 8 SCC 273.

Applicant at the scene of occurrence at the relevant time. Moreover, while the Complainant's supplementary statement only confirmed the presence of the co-accused Md. Ahsan, it squarely attributes the central role of impersonation and inducement to the present Applicant.

4.5. The Applicant's role is multifaceted as he masqueraded as "Dinesh" to dupe the Complainant, absconded with the money under the pretext of making an RTGS transfer, and forged multiple documents, including the Aadhaar card, rent agreement, and number plate, to give effect to the fraudulent scheme. Thus, unlike the co-accused, the Applicant was not merely present but was instrumental in conceiving and executing the entire plan.

4.6. The mere filing of a chargesheet does not constitute a material change in circumstances. Given the gravity of his role and the elaborate acts of impersonation and fabrication attributed to him, there is every likelihood that the Applicant will evade the process of law if released on bail.

Analysis

5. The court has considered the aforenoted contentions. It is a well settled principle of law that while considering a bail application, the Court must keep in mind several factors relating to the case, such as – whether there is any *prima facie* reasonable ground to believe that the accused has committed the offence, the nature and gravity of the accusation, severity of potential punishment, risk of the accused absconding or fleeing if released on bail, the likelihood of the offence being repeated, etc.[5] At the same time, the Court is not expected to delve into a detailed appreciation of the

[5] ***Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.*** (2010) 14 SCC 496

evidence, lest the bail proceedings acquire the character of a mini-trial.[6]

6. The case of the prosecution is that the Applicant, by assuming a false identity, induced the Complainant to part with a substantial amount of money under the pretext of supplying copper scrap. It is alleged that forged documents such as a rent agreement, Aadhaar card, and number plate were used to facilitate the fraudulent transaction. However, the fact remains that the alleged transaction was entirely in cash, and no contemporaneous documentary evidence such as a purchase order, invoice, GST entry, or bank trail has been produced by the Complainant to substantiate the payment of INR 40.79 lakhs. The prosecution's case thus rests primarily on oral allegations of the Complainant and his associates.

7. The alleged recovery of forged documents and the Scorpio vehicle from the joint possession of the Applicant and the co-accused, are certainly issues that merit scrutiny. However, the evidentiary value of these materials, including the CDR, must be tested during the course of trial and, at this stage, cannot be conclusively weighed against the Applicant.

8. It is also noted that the co-accused, Md. Ahsan, has already been granted bail by this Court *vide* order dated 26th May, 2025. While the role attributed to the present Applicant is projected as graver, the principle of parity cannot be brushed aside. Both accused are alleged to have acted in concert, and in the absence of any direct recovery from the Applicant, a distinction in their treatment for the purpose of bail does not appear justified.

9. The Applicant has been in custody since 27th November, 2024. As per the nominal roll as on 11th August, 2025, the Applicant has undergone 8

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[6] See also: ***Brijmani Devi v. Pappu Kumar & Anr.,*** (2022) 4 SCC 497 and ***Mahipal v. Rajesh Kumar @ Polia,*** (2020) 2 SCC 118.

months and 10 days of custody. It is also relevant to note that the maximum punishment prescribed for the offences alleged in the present case is seven years, and the Applicant has no criminal antecedents. In these circumstances, the continued incarceration, despite conclusion of investigation, is no longer warranted.

10. It is a settled law, through a consistent line of Supreme Court decisions, that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial[7]. With the investigation complete and the chargesheet been filed, the absence of any criminal antecedents, on grounds of parity with the co-accused, and the maximum punishment for the alleged offences prescribed being seven years, the Court is of the *prima facie* view that continued incarceration of the Applicant would serve no meaningful purpose and would run contrary to the principles enshrined under Article 21 of the Constitution of India. The prosecution's apprehension about the Applicant's risk of absconding can be mitigated by setting suitable conditions that guarantee his presence at trial.

11. Therefore, considering the totality of circumstances, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of INR 25,000/- with one surety of the like amount, subject to the satisfaction of the Trial Court/ Duty MM/ Jail Superintendent, on the following conditions:

a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;

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[7] See also: ***Sanjay Chandra v. CBI***, (2012) 1 SCC 40; S***atender Kumar Antil v. Central Bureau of Investigation*** (2022) 2 SCC 51.

b. 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;

c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;

d. The Applicant shall appear before the 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, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

12. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. 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 should also not be taken as an expression of opinion on the merits of the case.

14. The bail application is allowed and disposed of in the aforenoted terms.

15. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

SANJEEV NARULA, J

AUGUST 18, 2025/MK