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

+ **CRL.M.C. 6122/2024**

VINOD KUMAR MITTAL

.....Petitioner

Through: Mr. Vinod Kumar Mittal and Mr.
Shashank S. Mangal, Advs.

versus

STATE NCT OF DELHI AND ANR

.....Respondents

Through: Mr. Annirudh Sharma, Ms. Harshita
Gulati, Mr. Vineet Kumar, Mr. Aditya
Jain, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

05.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483(3) read with Section 528 of the BNSS seeks the following prayer:

“a. To set aside the order dated 20/06/2024 passed by Ms. Shefali Barnala Tandon, Ld. ASJ-05, West District, Tis Hazari Courts, Delhi granting bail to the Accused/Respondent No. 2 and the Accused/Respondent No.2 be committed to custody pending the decision of the case.

b. Pass any such further or other order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. Respondent no. 2 was granted regular bail by the learned Trial Court *vide* order dated 20.06.2024. A perusal of the said order reflects that the primary consideration for granting bail to the present applicant was on the ground of parity as co-accused Yogesh Makkar was granted bail by a Coordinate Bench of this Court *vide* order dated 26.04.2024 in Bail Appln. 3517/2023. The order granting bail to the aforesaid Yogesh Makkar has been



reproduced *in extenso* by the learned Trial Court. The relevant portion of the impugned order passed by the learned Trial Court for the purpose of present petition is reproduced below: -

“13. Even the Hon’ble High Court of Delhi while granting bail to co-accused Yogesh Makkar (at page 48 as Annexure ‘F), who was the head of Demat/depository Service Department, has observed as under :

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xxx

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24. It has been time and again emphasised and highlighted by the Courts that the rationale and reasons for permitting judicial custody of an under trial are to: (a) prevent an accused from committing another offence; (b) to conduct investigation; (c) to prevent from tampering with evidence or threatening/intimidating witnesses; and (d) to ensure the presence of the accused to face trial and to ensure that the accused is available to receive sentence, if convicted. It is settled that at pre-conviction stage, there is a presumption of innocence and that detention cannot be punitive or preventive.

25. There is no doubt that the allegations against the applicant are serious. This Court is also conscious of the fact that for the offence under Section 409 IPC, the punishment is for a term which may extend to 10 years or life imprisonment, but it cannot be overlooked that it is yet to be adjudicated whether applicant is guilty and/or what is his exact role in the alleged offences. In other words, it is yet to be ascertained whether ingredients of Section 409/120B are made out against the Applicant. It is also evident from the nature of the allegations and accusations that the evidence will mostly be documentary in nature and documents have been seized during investigation and Charge Sheet has been filed. In Sanjay Chandra (supra), the Supreme Court, looking at the accusations against the Appellants first observed that the charge of cheating and dishonesty inducing delivery of property and forgery for the purpose of cheating, using as genuine a forged document, was serious and in determining whether to grant bail, both seriousness of the charge and the severity of punishment should be taken into account. The Supreme Court thereafter noted that there were 17 accused persons and the documents relied upon by the prosecution were voluminous and therefore, the trial would take considerable time. It would, therefore, not be in the interest of justice that accused should be in jail for an



indefinite period. The Supreme Court also observed that the accused were charged with economic offences of huge magnitude, which if proved would jeopardise the economy of the country but the Court cannot lose sight of the fact that investigation was complete and Charge Sheet was filed and therefore, presence of the accused in custody may not be necessary.

26. Applicant is in judicial custody since 12.10.2022. The Trial Court has framed charges under Sections 409/120B IPC vide order dated 09.04.2024 and prosecution evidence is yet to commence. 81 witnesses have to be examined on behalf of the prosecution and thus conclusion of trial is likely to take considerable time. It is not the case of the State that the applicant is a flight risk or there are chances of his fleeing from justice. There is no evidence or even an allegation that applicant threatened the witnesses or interfered with or tampered with evidence during investigation. In *Jayant Kumar Jain v. The State*, Bail Appln. 2442/2020, decided on 14.09.2020, this Court granted bail to the Applicant on the ground that he had joined investigation on multiple occasions and it was not the case of the State that Applicant was a flight risk. The case arose out of a commercial transaction and was based on documents that were already seized and therefore, no further custody was required. In *H.B. Chaturvedi v. C.B.I.*, 2010 SCC OnLine Del 2155, this Court granted bail to the applicant inter alia on ground that there was nothing in the reply of CBI to suggest that there was a reasonable apprehension that applicant will flee from justice, if released on bail. Conduct of the applicant showed that he was joining investigation before his arrest and is an established businessman with roots in the society. Bail is not to be withheld as a punishment and even assuming that the accused is prima facie guilty of a grave offence, bail cannot be refused as an indirect method of punishing before the accused is convicted. This Court in *Sunder Singh Bhati (supra)*; *Sanjeeva Shukla v. State through EOW*, 2023 SCC OnLine Del 5326 and *Ajay Kumar v. State NCT of Delhi*, 2023 SCC OnLine Del 7303, has granted bail to the applicants therein charged with similar offences, considering that conclusion of trial was likely to take a long time, evidence was primarily documentary and accused had been in custody for a long time.”



Conclusion:

14. In view of the above facts & circumstances and basically on the ground of 'Parity', the applicant/accused Pawan Sachdeva is granted bail on the same terms & conditions on furnishing personal bond in the sum of Rs.2 lacs with two sureties of the like amount, subject to the satisfaction of the Trial Court/Ld.CMM/Ld.MM/Ld.Link MM/ld.Duty MM and further subject to the following conditions :

(1) Applicant/accused shall not leave the country without prior permission of the Trial Court.

(2) He shall provide his mobile number to the IO concerned and keep the same active at all times and shall not change the number without prior intimation to the IO and the Trial Court.

(3) He shall furnish his permanent residential address to the concerned IO and shall intimate the IO as well as the Trial Court by filing an affidavit regarding any change in his residential address.

(4) He shall appear before the Trial Court as and when the matter is taken up for hearing and

(5) He shall not indulge in any criminal activity or contact any witness and/or any other person associated with the present case.

15. It is made clear that nothing stated in this order shall tantamount to an expression on merits of the case.

16. Copy of the order be sent to the concerned Jail Supdt. for information and necessary compliance.

17. Application is accordingly disposed of."

4. Learned counsel appearing on behalf of the petitioner submits that respondent no. 2 was a whole time Director in the subject company. It is submitted that the learned Trial Court ought to have placed additional conditions on the petitioner with regard to the deposit of a certain amount corresponding to the amount involved in the present offence. Reliance was placed on the judgment of Hon'ble Supreme Court in Subhelal @ Sushil Sahu v. The State of Chattisgarh, Criminal Appeal No. 818/2025, whereby the Hon'ble Supreme Court had directed the petitioner therein to deposit a certain



amount while granting bail.

5. *Per contra*, learned counsel appearing on behalf of the respondent no.2 submits that the learned Trial Court while granting bail to the latter has considered all the material on record and had granted bail to him on the grounds of parity. It is further submitted that the investigation stood complete and the prosecution had cited 81 witnesses. It is further submitted that the respondent no.2 was in custody since 15.10.2022 and had spent approximately 1 year and 8 months in judicial custody before being granted bail by the learned Trial Court.

6. Heard the learned counsel for the parties and perused the records.

7. As already pointed hereinabove, the primary ground for granting bail to respondent no. 2 was on grounds of parity. The coordinate bench of this Court had already granted bail to co-accused Yogesh Makkar *vide* order dated 26.04.2024. The respondent no. 2 was placed in similar circumstances and was in custody since 15.10.2022. Nothing has been brought on record to demonstrate that the said respondent has misused the liberty granted.

8. So far as the submissions of the learned counsel appearing on behalf of the petitioner with respect to the direction of payment of certain amount is concerned, it is noted that there is no prayer to that effect in the present petition which is filed under Section 483(3) of the BNSS which reads as under: -

483. Special powers of High Court or Court of Session regarding bail.

“(3) A High Court or Court of Session may direct that any person who has been released on bail under this Chapter be arrested and commit him to custody.”

9. The present petition is only for the limited purposes of examining the



legality of the impugned order passed by the learned Trial Court on 20.06.2024. In the present jurisdiction, the Court cannot now examine the conditions of grant of bail to respondent no. 2.

10. Be that as it may, the judgment relied upon by the learned counsel appearing on behalf of the petitioner is in respect of a case involving 2,000 investors involving crypto-currency.

11. In view of the aforesaid facts and circumstances no grounds are made out to interfere with the impugned order dated 20.06.2024 passed by the Learned Additional Sessions Judge- 05 while granting bail to respondent no. 2.

12. The petition is dismissed and disposed of.

13. Pending applications, if any, also stand disposed of.

14. Order be communicated to the concerned learned Trial Court for necessary information and compliance.

15. Order be communicated to the concerned Jail Superintendent for necessary information and compliance.

16. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

MARCH 5, 2025/kr

Click here to check corrigendum, if any