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

\+ **<u>BAIL APPLN. 3041/2025 & CRL.M.A. 23559/2025</u>**

SANJEEV KUMAR TRIVEDI .....Applicant

Through: Mr. Ashish Aggarwal, Mr. Shalabh Gupta, Mr. Harsh Sachdeva, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Ms. Richa Dhawan, APP for the State.
SI Ramvatar, PS Vasant Vihar.
Mr. Abhir Datt, Mr. Vipul Wadhwa, Ms. Kashika Gera, Mr. Debayan Gangopadhya, Ms. Varmika Singh, Advs. along with AR of the complainant Mr. Rishab Jain.

\+ **<u>BAIL APPLN. 3026/2025 & CRL.M.A. 23411/2025</u>**

VISHAL CHAUDHARY .....Applicant

Through: Mr. Ashish Aggarwal, Mr. Shalabh Gupta, Mr. Harsh Sachdeva, Advs.

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Sunil Kumar Gautam, APP for the State.
SI Ramvatar, PS Vasant Vihar.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

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

% **12.08.2025**

1. The present applications are filed seeking pre-arrest bail in FIR No. 195/2024 (‘**FIR**’) dated 31.12.2024, registered at Police Station Vasant Vihar for the offences under Sections 420/468/471/120B of the Indian Penal Code, 1860 (‘**IPC**’).

2. The FIR was registered on a complaint given by one Mohinder Kumar Jain who is stated to be the director of Chelsea Blocks and Pipes Private Limited (hereafter ‘**the complainant company**’). The complainant company sells concrete products under the brand name *“Chelsea Concrete.”* The present applicants worked as employees in the complainant company. It is alleged that the present applicants, during the course of their employment, created a company of a similar name by using the domain name and original website of the complainant company, that is, *“Chelsea concrete”*.

3. It is alleged that the applicants diverted the business of the complainant company on the pretext that they were the authorised dealers of the products sold by the complainant company and received huge amounts from the customers by generating fake invoices thereby causing wrongful loss to the complainant. It is further alleged that the applicants in connivance with third party retailers misled the complainant company into selling the concrete material and other items to such retailers at a discounted price. It is alleged that thereafter, the applicants purchased the said items from the retailers and sold them in open market at inflated prices.

4. It is alleged that the applicants further used the vehicle of the complainant company to deliver the items to the customers in order to deceive the customers into believing that the invoices

were generated by the complainant company. It is alleged that the invoices issued by the applicants are a replica of the logo of the complainant company. It is further alleged that the applicants also operated a bank account under the name of *"Chelsea Concrete"*

5. It is also alleged that the applicants requested the complainant company to issue credit notes in the names of various retailers on the pretext that the goods supplied to the said retailers were defective in nature. It is alleged that the complainant company, in good faith, gave credit notes amounting to a sum of ₹25,00,000/- to the said retailers. On getting aware of the acts of the applicants, a complaint was given which led to the registration of the FIR.

6. The learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the present case. He submits that the disputes between the parties are civil in nature. He submits that the complainant company did not suffer any loss as a consequence of the transactions since the complainant company was already selling its products to the retailers at low prices. He submits that no profit was earned by the applicants.

7. *Per contra,* the learned Additional Public Prosecutors for the State and the learned counsel for the complainant vehemently oppose the grant of any relief to the present applicants. They submit that the allegations against the applicants are serious in nature. They submit that the applicants, during the course of their employment with the complainant company, created a company with identical name, by using the domain name and original

website of the complainant company being "*Chelsea Concrete*". They submit that the applicants diverted the business of the complainant company by representing themselves to be the authorized dealers of the products of the complainant company, and also received huge amounts from the customers by generating fake invoices. They submit that the applicants misled the complainant company into selling concrete material to retailers at a discounted price, and thereafter purchased the same from the said retailers and sold the same in open market thereby making huge profits. They submit that the statements of the customers reflect that they were misled to believe that they were purchasing goods from the complainant company.

8. The learned counsel for the complainant submits that the applicants operated a bank account in the name of "*Chelsea Concrete*". He submits that the applicants diverted the business of the complainant company and sold the goods in the open market at inflated prices making huge profits thereby causing wrongful loss to the complainant company. He submits that the same has also tarnished the goodwill of the complainant company.

9. I have heard the counsel and perused the material on record as well as the case diary.

10. It is to be kept in mind that the investigation is currently at a nascent stage. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

11. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of ***State of A.P. v. Bimal Krishna Kundu*** **: (1997) 8 SCC 104**, held as under:

> "***8.*** *A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)*
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> > *"5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal."*
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> ***9.*** *Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)*
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> > *"The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest."*
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> xxx
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> ***12.*** *We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.*"

12. It is the case of the prosecution that the applicants, during the course of their employment with the complainant company, created another company identical to the complainant company by using the same domain name and website of the complainant company being "*Chelsea Concrete*". It is alleged the applicants firstly misled the complainant company into selling its products at a discounted price to a mediator company whereafter the applicants purchased the same from the mediator company and transferred the same to the company created by them under the name of "*Chelsea Concrete*" and thereafter sold it in open market at inflated prices. It is alleged that the applicants diverted the business and clients of the complainant company by representing themselves to be the authorised representatives of the complainant company.

13. The applicants, in the present case, have disputed the transactions and have sought pre-arrest bail on the ground that no loss was caused to the complainant company.

14. It is pertinent to note that the applicants, undisputedly, were employees of the complainant company and had entered into certain transactions without permission. Even if this Court were to acknowledge the arguments of the applicants at face value that no pecuniary loss *per se* was caused to the complainant company, yet it cannot at this stage be said that *prima facie,* the applicants are sought to be falsely implicated. This Court has perused the case diary and statement of the customers recorded by the police. From a perusal of the same, it is borne out that the customers were misled into believing that they were dealing with the complainant company. At this stage, it

therefore, cannot be said that no loss was incurred by the complainant company. The ingredients of cheating are attracted not only when any person is induced to part with money but also when the said person does not receive the money that such person is entitled to receive.

15. The case of the prosecution, at this stage, is also that the applicants operated a separate bank account in the name of "*Chelsea Concrete*".

16. In view of the above, in the present circumstances, this Court is of the opinion that custodial interrogation of the applicants ought not to be denied to the investigating authority.

17. The relief of pre-arrest bail is a legal safeguard intended to protect individuals from potential misuse of power of arrest. It plays a crucial tool in preventing harassment and unjust detention of innocent persons. However, the court must carefully balance the individual's right to liberty with the interests of justice. While the presumption of innocence and the right to liberty are fundamental principles of law, they must be considered in conjunction with the gravity of the offence, its societal impact, and the need for a comprehensive and unobstructed investigation.

18. Considering the material on record, it cannot be held at this stage that the investigation is being carried out with the intention to injure or humiliate the applicants. *Prima facie*, the facts do not indicate false implication of the applicants.

19. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order of pre-arrest bail [Ref. ***State v. Anil Sharma* : (1997) 7 SCC 187**]. Granting

anticipatory bail to the applicants would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to allow the applicants to use the same as a shield.

20. In view of the aforesaid, granting pre-arrest bail to the applicants would undoubtedly impede the investigation. In the opinion of this Court, the applicants have not established a *prima facie* case for grant of pre-arrest bail.

21. The present applications are accordingly dismissed.

22. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

23. A copy of the order be placed in both the matters.

AMIT MAHAJAN, J

AUGUST 12, 2025