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

\+ BAIL APPLN. 3175/2025

MUKESH GUPTA .....Petitioner

Through: Mr.Vikas Pahwa, Senior Advocate with Mr.K. Anshuman Singh, Mr.K.Aditya Singh, Mr.Shivam Tyagi, Ms.Priyal Jain and Ms.Somya, Advocates

versus

STATE(NCT OF DELHI) & ANR. .....Respondents

Through: Ms.Richa Dhawan, APP for State with SI Lalit Kumar, PS EOW

Mr.Rachit Batra, mr.Rachit Khandelwal and Ms.Isha Bhalla, Advocates for Complainant.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

O R D E R

% 15.09.2025

1. The applicant herein seeks indulgence of this Court for grant of bail during the pendency of trial in criminal proceedings arising out of FIR No. 114/2022, dated 26.07.2022, registered at Police Station Economic Offences Wing. The FIR records alleged offences under Sections 420, 467, 468, 471, 120B of the IPC, and chargesheet filed under Sections 406, 420, 467, 468, 471, 120B of the IPC.

2. Briefly speaking, per FIR, M/s Chaudhary Timber Industries Pvt. Ltd. (“M/s Chaudhary”) entered into an agreement with M/s Amrose Singapore

Pte. Ltd. ("M/s Amrose") to import timber from New Zealand, with payments to be made via Letters of Credit (LCs) issued by Bank of India. The timber was to be delivered at Kandla Port on a CIF basis, and M/s Amrose was required to provide relevant shipping and financial documents, including the Bill of Lading, Insurance, Packing List, Certificate of Origin, and Beneficiary Certificate, to secure the payments under the LCs.

2.1 Despite the agreement, M/s Amrose unilaterally cancelled the contract in April 2020, claiming that the goods had been diverted to China, and instructed M/s Chaudhary not to honor the documents received by the bank. Multiple communications were sent by M/s Chaudhary to the applicant, director of M/s Amrose, and to Indian Bank, Singapore, requesting confirmation of the cancellation and return of original documents. Indian Bank, Singapore, however, failed to provide any response, raising suspicion of collusion.

2.2 Subsequent investigations revealed that the Bill of Lading, Insurance, and Certificate of Origin issued by M/s Amrose were forged and fabricated. Verification from the vessel owner, Asia Maritime Pacific Limited, confirmed that the vessel was never at the port of loading, and the bills of lading were unauthorized. The insurance documents were forged using counterfeit seals, and the New Zealand Chamber of Commerce confirmed that the Certificates of Origin were not genuine. Therefore, M/s Amrose knowingly provided fraudulent documents to mislead M/s Chaudhary and induce payment under the LCs.

2.3 Mr. Mukesh Gupta (Applicant herein), as the principal director of M/s Amrose, orchestrated the scheme, issuing false assurances to M/s Chaudhary and directing Indian Bank, Singapore to act in collusion. Indian Bank, Singapore, aware of the forged documents, failed to verify their authenticity, ignored SWIFT messages from Bank of India seeking confirmation of cancellation, and actively facilitated the fraudulent transaction to benefit the Applicant and M/s Amrose. This coordinated conduct demonstrates a clear conspiracy to defraud M/s Chaudhary.

2.4 The offences committed include cheating (Section 420 IPC) by inducing M/s Chaudhary to make payments based on forged documents, criminal breach of trust (Sections 406 & 409 IPC) by misusing entrusted property and documents for personal gain, forgery and use of forged documents (Sections 468, 471, 474 IPC), and criminal conspiracy (Section 120B IPC) between Applicant, M/s Amrose, and Indian Bank, Singapore.

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 That the applicant has a strong case on merits, is innocent, and has been falsely implicated in the present matter. Even after being granted interim bail, he has acted bona fide, not misused the concession in any manner, and has complied with all directions and conditions imposed by this Court, as reflected in the status reports.

4.2 That the FIR and chargesheet reveals that the foundation of the present proceedings is essentially a civil dispute, which has been wrongly given a criminal color only to extract money from the Applicant.

4.3 That the dispute pertains to commercial transactions of 2019–2020, which are already the subject matter of pending civil proceedings in CS (Comm) No. 168/2021 titled Chaudhary Timber Industries Pvt. Ltd. vs.

Amrose Singapore Pte. Ltd. & Ors., and the present complaint is nothing but an afterthought.

4.4 That the complaint filed in 2020 did not mention any fraudulent agreements, which itself shows the civil nature of the dispute and the absence of criminal intent. The written statement of the Complainant's banker, i.e., Bank of India, categorically confirms that no monies were paid to or received by Indian Bank, Singapore, under the concerned LCs, thereby negating any alleged wrongful loss to the Complainant. The continuation of these criminal proceedings, in the absence of any real criminality, amounts to sheer abuse of the process of law.

4.5 That no fraudulent or dishonest intention can be attributed to the Applicant at the inception of the transaction, as Amrose Singapore had duly apprised the complainant regarding rerouting of goods due to the COVID-19 lockdown and continued to extend assurances. The allegations, therefore, do not constitute the offence of cheating and, at best, give rise to a civil–commercial dispute, rendering the continuation of criminal proceedings a clear abuse of process.

4.6 That the Bill of Lading, Certificate of Origin, and Insurance documents were duly accepted and acted upon by the complainant and its bank at the relevant time, and the goods were in fact loaded for delivery. The subsequent diversion of the vessel to China rendered the Bills of Lading null and void, which cannot be equated with forgery. There is no evidence to suggest that the Applicant/Accused created or fabricated any false documents. Further, in view of subsisting injunction orders since 2020, no wrongful loss has been caused to the complainant. The prosecution case rests only on the allegation that the complainant suffered loss, which is insufficient to attract the grave charge of forgery against the Applicant.

4.7 That the Applicant is a senior citizen suffering from multiple serious chronic conditions, including high blood pressure, diabetes, chronic kidney disease (Stage–3), high cholesterol, hyperuricemia, and coronary artery disease with 90% blockage, along with heart failure and a history of renal bleeding. He requires ongoing medical supervision, multiple daily medications (including insulin), and surgeries such as balloon angioplasty and gallbladder removal. Given his advanced age and fragile health, the Applicant qualifies as sick and infirm and deserves bail on humanitarian and medical grounds.

4.8 That the alleged incident relates to events that occurred during 2019-2020, and the complaint before the investigating authority was only filed in August 2021, the FIR in question was registered on 26.07.2022, i.e., almost two years after the alleged offence and one year after the written complaint. Such an inordinate delay raises serious questions about the veracity and necessity of custodial detention.

4.9 That the alleged offence, as per the Complainant's case, was committed outside India by a citizen of Singapore, Indian courts lack territorial jurisdiction to prosecute the matter. Investigation can only lawfully proceed after obtaining appropriate governmental sanction, and any custodial action before that is premature.

4.10 That the Ld. Sessions Court directed the Applicant to surrender his passport, which he duly complied with before his release on 09.06.2025, the Applicant is not a flight risk and will abide by any conditions imposed by this Court.

4.11 That all the evidence in the case is documentary and has already been filed with the Civil Suit instituted by the Complainant, there is no risk of tampering if bail is granted.

4.12 That the Applicant has joined the investigation on several occasions and has cooperated fully, without confessing to an offence (which is not a prerequisite for cooperation), it is evident that the Applicant is willing to facilitate the investigative process. Further, the investigation has been ongoing for three years, and no purpose will be served by continued custody.

4.13 That the Applicant has no prior criminal record, has maintained a law-abiding lifestyle, and possesses deep societal and professional roots, there is no credible apprehension of re-offending. He poses no threat to the ongoing investigation.

4.14 That it is settled law that bail cannot be denied merely on account of economic offences, and even if the offence is grave, it does not justify automatic denial of bail.

4.15 That the accused/applicant cannot be kept in custody as a punishment, the grant of bail is guided by the triple test and severity of punishment, not punitive considerations.

4.16 That the Applicant is presumed innocent until proven guilty, his continued incarceration constitutes a violation of the cardinal principle of criminal jurisprudence, as bail should not be withheld to indirectly punish him before trial.

5. The learned APP for the State opposes the bail application, arguing that the Applicant's bail application is premature and merits rejection. Despite claims of advanced age and health complications, the seriousness of the alleged offences necessitates custodial oversight to ensure proper

investigation. The delay in FIR registration does not negate the gravity or credibility of the allegations, nor does it diminish the need for further questioning or evidence verification.

5.1 The State further argued that the Applicant's cooperation and surrender of the passport do not eliminate the risk of absconding, tampering with evidence, or influencing witnesses. Health concerns can be appropriately managed under custodial supervision without compromising the investigation. Bail is not a matter of right in cases involving grave offences, and the release of the Applicant at this stage would be prejudicial to the public interest and the integrity of the ongoing investigation. In view of these considerations, the Applicant's plea for bail should be denied.

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, those issues 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. *Prima facie* what appears to be essentially a civil–commercial dispute of 2019–2020, already pending in civil proceedings, seems to have been wrongly given a criminal colour. Oblique motive cannot be rules out i.e. to settle the money matters by coercion. The FIR also suffers from delay, the alleged acts occurred outside India by a foreign citizen raising arguable jurisdictional issues.

8. The applicant was arrested on 22.04.2025. The Ld. Sessions Court granted interim bail *vide* order dated 05.06.2025, which was further extended by this Court *vide* order dated 27.06.2025, and continued by this

Court *vide* order dated 02.07.2025 and the trial is progressing at a slow pace, and this prolonged pre-trial detention, coupled with the delay in proceedings, strengthens the case for granting bail.

9. All evidence is documentary, already on record, and the applicant has fully cooperated with the investigation, surrendered his passport, and is neither a flight risk nor a threat of tampering. He is a senior citizen suffering from multiple life-threatening ailments requiring constant medical care, and prolonged custody would amount to punishment before trial. With no prior criminal record, no risk of re-offending, and settled law that bail cannot be denied merely because of the economic nature of the offence, continued incarceration violates the presumption of innocence.

10. Aside above, reference may be had to the status report dated 12.09.2025 which has been filed today during the course of proceedings by the prosecution. The relevant paragraph qua the medical condition of the applicant reads as under:

> " 2. *That in compliance of the directions the updated medical report of accused Mukesh Gupta has been obtained from the Max Super Specialty Hospital, Shalimar Bagh, Delhi on 22.08.2025 which states as under:*
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> > *"a) the accused Mukesh Gupta was admitted to Max Hospital on 18.08.2025 and continues to remain admitted as an in-patient.*
> >
> > *b) He has been diagnosed with acute cholecystitis, heart failure with preserved ejection fraction (HFpEF), Cystitis, coronary artery disease (single vessel disease), and chornic kidney disease with compromised renal functions due to dehydration.*
> >
> > *c) He has been advised to undergo laparoscopic cholecystectomy and Percutaneous Transluminal Coronary Angioplasty (PTCA) for single vessel disease.*
> >
> > *d) However, at present he is not medically stable to undergo*

surgery. No date has yet been fixed for the procedures. The hospital has opined that the surgeries are urgent and may be undertaken within a couple of days once his condition stabilizes.
e) The hospital has further certified that the required treatment is also available in tertiary care government hospitals such as AIIMS, RML, or GB Pant Hospital."

11. In view of the aforesaid, I am of the opinion that right to health since envisaged under Article 21 of the Constitution of India and keeping the petitioner in custody will be most definitely interfere in the course of the treatment which he wishes to undertake apart from otherwise his being currently not in a medical condition to undergo a surgery which has been advised. It is but natural that said stability can only be better attained under care and attention of the family members.

12. As regards the apprehension of tampering with evidence, it is noteworthy that all material evidence 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.

13. 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.

14. 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.

15. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 15, 2025/SV