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

\+ BAIL APPLN. 3275/2025 & CRL.M.A. 25522/2025

RAKESH .....Petitioner

Through: Mr. Manish Choudhary, Advocate

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Manoj Pant, APP for the State
Mr. Rajesh Gehlawat, Adv. for complainants along with complainants in-person.

CORAM:
HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

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

% 24.09.2025

1. By way of this application, the applicant seeks grant of regular bail in case arising out of the FIR bearing no. 281/2019, registered on 30.05.2019 at Police Station Prem Nagar, Delhi, for the commission of offence punishable under Sections 420/406 of the Indian Penal Code, 1860 (hereafter '*IPC*').

2. Brief facts of the case are that a complaint *vide* DD No. 16B dated 26.02.2019 was received from Smt. Katori Devi against the present accused Rakesh Kumar. She stated that she had purchased a property admeasuring 40 square yards from the accused on 11.07.2018 for a consideration of ₹7,90,000/-. On the same day, she had paid a sum of ₹3,95,000/- to the accused as advance/*bayana*, and the remaining amount had been paid within the next two months. However, despite the lapse of five months, she had not been given possession of the said property. Later, she came to know that the

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plot in question actually belonged to one Kamal. The accused had thereafter promised to return the money to her and had issued two cheques totaling ₹6,00,000/-, but both cheques were dishonoured. It was further alleged that the accused had also cheated Smt. Usha and Smt. Rambati Devi of amounts of ₹4,60,000/- and ₹6,00,000/- respectively. On these allegations, the FIR was registered.

3. During investigation, Smt. Rambati Devi was examined by the IO. She stated that the accused Rakesh had shown her a plot measuring 35 sq. yards for a total consideration of ₹5,60,000/- and she had paid ₹2,60,000/- as *bayana* and the remaining amount was paid subsequently. However, despite repeated requests, the accused avoided registration of the documents on one pretext or another. Later, she had learnt that the property actually belonged to one Nirmal, though the accused had represented that it was owned by one Vinod. Similarly, Smt. Usha also disclosed to the I.O. that the accused had shown her a plot measuring 30 sq. yards for a consideration of ₹4,60,000/-. She had paid ₹1,00,000/- as *bayana* and later paid the balance amount of ₹3,60,000/-. She had even commenced construction on the plot, but was stopped by Nirmal, the true owner, who informed her that the property belonged to him and that no payment had been received by him from Rakesh.

4. The learned counsel appearing for the applicant/accused submits that the applicant has been in judicial custody since 04.10.2024, i.e., for more than ten months. It is argued that the trial has not progressed as no witness has been examined till date owing to repeated adjournments and the judicial file presently not being traceable. It is further submitted that the learned

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Trial Court has already discharged the applicant for the offence under Section 406 of IPC. It is contended that the dispute, at best, is of a civil nature relating to cancellation of a property transaction, but has been given a criminal colour by the complainant. It is also urged that the applicant is a 55-year-old man suffering from high blood sugar and requires medical attention. It is also stated that the applicant had shifted from Prem Nagar, Delhi to Ghaziabad in 2018 and was unaware of the present FIR. In these circumstances, learned counsel prays that the applicant be enlarged on regular bail.

5. On the other hand, the learned APP for the State opposes the present bail application and submits that the allegations against the accused are grave and serious in nature. It is argued that the accused had cheated not only the complainant but also two other victims, i.e. Smt. Rambati Devi and Smt. Usha, who were induced to part with substantial amounts of money on false representations regarding ownership of plots, which was never transferred to them even after receiving the money. It is further submitted that the accused had been absconding for a considerable period, was declared a proclaimed offender on 26.04.2024, and could be apprehended only thereafter. It is thus prayed that this bail application be dismissed.

6. This Court has **heard** arguments advanced on behalf of the applicant/accused as well as the State, and has perused the material on record.

7. The principal contention of the learned counsel for the applicant, that the present dispute is essentially of a civil nature arising out of a property transaction, which has been unnecessarily given a criminal colour by the

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complainant, is unmerited in this Court's opinion. During investigation, not only the complainant but also two other victims, i.e. Smt. Rambati Devi and Smt. Usha, were examined, both of whom have categorically stated that the accused had dishonestly induced them to part with substantial sums of money for purchase of plots of land, which did not belong to the persons as were informed to the victims. Their statements disclose that the accused had misrepresented ownership of the plots, accepted large payments, and thereafter avoided execution of documents on one pretext or another. In one case, the victim had even started construction on the plot before being stopped by the actual owner. The victims have also furnished certain documents, receipts, and cheques in support of their claims. The material collected during investigation thus clearly reveals the accused's modus operandi of cheating multiple victims.

8. It is further borne out from the record that during the course of investigation, the accused could not be traced at his address in Delhi. Proceedings under Sections 82 and 83 of Cr.P.C. had to be initiated, and the accused was declared a proclaimed offender on 26.04.2024. He could be apprehended only on 04.10.2024 after prolonged proceedings despite the FIR having been registered as far back as 2019. Thus, these circumstances *prima facie* demonstrate that the accused had been evading the process of law and after cheating the victims of their hard earned money, had shifted from Delhi to Ghaziabad, Uttar Pradesh.

9. Charges for offence under Sections 420/34/174A of IPC already stand framed against the applicant. The trial is at a crucial stage and the evidence of complainant and other witnesses is yet to be recorded, and the possibility

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of applicant threatening the complainant and other witnesses, if released on bail, cannot be ruled out. Thus, considering the seriousness of the allegations, the pattern of cheating involving multiple victims, the conduct of the accused in evading process of law leading to his declaration as a proclaimed offender, and the nascent stage of trial, this Court does not find any ground to enlarge the applicant/accused on bail.

10. Accordingly, the present bail application stands dismissed.

11. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

12. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

SEPTEMBER 24, 2025/h

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