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

+ **BAIL APPLN. 3462/2025 & CRL.M.A. 27051/2025,**
CRL.M.(BAIL) 1893/2025

DHEERAJ WADHAWAN

.....Applicant

Through: Mr. Ravi Prakash, Sr.
Adv. along with Mr.
Aditya Dewan & Ms.
Ramneet Kaur, Advs.

versus

CENTRAL BUREAU OF INVESTIGATION

.....Respondent

Through: Mr. Mr. Anupam S.
Sharma, SPP for CBI
with Mr. Prakarsh Airan,
Mr. Harpreet Kalsi & Mr.
Syamantak Mudgill, Advs.
IO ASP Alok Kumar
Singh.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **16.09.2025**

1. The present application is filed seeking regular bail in RC2242022A0001 dated 20.06.2022 for offences under Sections 409/420/477A/120B of the Indian Penal Code, 1860 ('IPC') read with Sections 13(2)/13(1)(d) of the Prevention of Corruption Act, 1988 ('PC Act').

2. Briefly stated, it is alleged that M/s Dewan Housing Finance Corporation Limited ('DHFL'), co-accused Kapil Wadhawan, the applicant and other accused persons entered into a criminal conspiracy to cheat the consortium of 17 banks led by the Union Bank of India. It is alleged that the accused persons, in



furtherance of the said criminal conspiracy, induced the consortium banks to sanction loans aggregating to a sum of ₹42,871.42 crores and thereafter misappropriated a significant portion of the said funds by falsifying the books of DHFL and further defaulted on repayment of legitimate dues thereby causing wrongful loss of a sum of ₹34,615 crores to the consortium banks.

3. On being pointedly asked why the applicant did not approach the learned Special Judge before whom the chargesheet has been filed, the learned Senior Counsel for the applicant submits that special circumstances exist due to which the applicant is not hopeful to get any relief from the learned Special Judge, PC Act, CBI.

4. He submits that the learned Special Judge, PC Act, CBI, on an earlier occasion, while allowing the application filed by the applicant under Section 167 of Code of Criminal Procedure, 1973 ('CrPC') had made certain observations which categorically shows that the learned Special Judge has already made up his mind in regard to the merits of the case.

5. The learned Special Public Prosecutor for the CBI vehemently opposes the maintainability of the present application.

6. It is pertinent to note that the Hon'ble Apex Court in the case of **Arvind Kejriwal vs. Central Bureau of Investigation : 2024 SCC OnLine SC 2550**, wherein the accused had directly approached the High Court seeking bail and the matter had thereafter travelled to the Hon'ble Apex Court, had observed as under:



44. An undertrial thus should, ordinarily, first approach the Trial Court for bail, as this process not only provides the accused an opportunity for initial relief but also allows the High Court to serve as a secondary avenue if the Trial Court denies bail for inadequate reasons. This approach is beneficial for both the accused and the prosecution; if bail is granted without proper consideration, the prosecution too can seek corrective measures from the High Court.

45. However, superior courts should adhere to this procedural recourse from the outset. If an accused approaches the High Court directly without first seeking relief from the Trial Court, it is generally appropriate for the High Court to redirect them to the Trial Court at the threshold. Nevertheless, if there are significant delays following notice, it may not be prudent to relegate the matter to the Trial Court at a later stage. Bail being closely tied to personal liberty, such claims should be adjudicated promptly on their merits, rather than oscillating between courts on mere procedural technicalities.

7. Ordinarily, the accused should thus first approach the learned Trial Court and the High Court should entertain the application only if there exist certain special circumstances.

8. In the present case, as noted above, the only special circumstance pleaded by the applicant is that he apprehends that he may not get any relief as the learned Special Judge has already made up his mind in regard to the merits of the case as per paragraph 41 of the order dated 03.12.2022. A perusal of the order dated 03.12.2022 reveals that the learned Special Judge while granting the benefit of bail to the applicant under Section 167(2) of the CrPC had noted that in view of the gravity and seriousness of the case “*perhaps accused persons might not be entitled to any bail*”.

9. It is pointed out that the said order was eventually set aside by the Hon’ble Apex Court.



10. Concededly, the said observations were made by the learned Special Judge considering the material on record and the arguments advanced by the parties at that stage.

11. It is not in doubt that much water has flown pursuant to the order passed by the learned Special Judge. The matter had also travelled to this Court which led to passing of certain orders by this Court and subsequently by the Hon'ble Apex Court. Further investigation had also taken place which led to filing of the supplementary chargesheet as well.

12. The apprehension of the applicant thus, in the opinion of this Court, is misconceived. It is settled law that as and when any subsequent applications are filed by the accused before the concerned Courts, the same have to be decided on their own merits considering the change in circumstances.

13. Even otherwise, the learned Special Judge, at that stage also, in the opinion of this Court, had not given any finding either *prima facie* or otherwise in regard to the merits of the case and only a passing reference was made in regard to the gravity and seriousness of the offence.

14. The learned Senior Counsel for the applicant further submits that this Court on an earlier occasion, while considering a similar apprehension, had entertained the application filed by co-accused under Section 439 of the CrPC.

15. Be that as it may, as noted above, in the opinion of this Court, the applicant has an efficacious alternate remedy and the circumstances as pointed out are not extraordinary so as to warrant the exercise of jurisdiction by this Court.



16. In view of the above, this Court does not consider it apposite to entertain the present application.

17. The applicant is at liberty to file an application seeking regular bail before the concerned Trial Court.

18. The application is disposed of with the aforesaid observations. Pending applications also stands disposed of.

AMIT MAHAJAN, J

SEPTEMBER 16, 2025

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