$~53

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

\+ BAIL APPLN. 3547/2025

ANKIT SHARMA .....Petitioner

Through: Mr. Pallavi Bhatt, Mr. Akhilesh Singh and Mr. Sahil Bhat, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Ms. Richa Dhawan, APP for the State Mr. Ramji Pandey, Mr. Ashish Sharma, Mr. A.P.S Jadaun, Advocates for R-2 alongwith AR of Complainant Company.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

O R D E R

% 10.10.2025

1. Having remained under incarceration since 11.05.2025 (approximately 5 months) in a criminal case arising out of FIR No. 66/2025 dated 10.01.2025 *inter alia* for the alleged offence punishable under Section 408 of IPC, registered at Police Station Karol Bagh, seeks bail during the pendency of the trial. Though as per chargesheet the applicant/accused was arrested on 23.04.2025. He is currently an under-trial only for offence punishable under Section 420 of IPC as Section 408 has been dropped by the prosecution.

2. Per FIR, briefly stated, the case set up by the complainant company is as below:-

2.1 The applicant, Mr. Ankit Sharma, was employed with the complainant company as Assistant Manager - Accounts (Employee ID: RASI-1515) and had been working there for approximately six and a half years.

2.2 During internal reconciliation of the company's bank accounts, it was allegedly discovered that the applicant had executed multiple unauthorised and suspicious transactions, transferring funds from the group companies' bank accounts to various accounts belonging to his family members, friends, and relatives without the knowledge or approval of senior management.

2.3 The applicant thereby caused wrongful loss to the complainant company and corresponding wrongful gain to himself and others, by misappropriating company funds in a deliberate, deceptive, and systematic manner.

2.4 The complainant further alleged that when confronted, the applicant admitted his misconduct and provided a written confession acknowledging manipulation and diversion of funds from the company's accounts maintained with Union Bank of India and ICICI Bank, transferring money to several accounts both within Delhi/NCR and outside Delhi.

2.5 Based on these allegations, the complainant company, through its authorised representative, requested initiation of appropriate legal action, pursuant to which the present FIR was registered against the applicant.

3. In the above backdrop, I have heard the rival submissions and carefully perused the case record.

4. Learned counsel for the applicant reiterated the grounds urged in the petition, submitting inter alia as follows:

4.1 The applicant was arrested on 11.05.2025 and has remained in judicial custody since 12.05.2025. The investigation *qua* the applicant stands concluded, and the chargesheet was filed on 19.07.2025.

4.2 During earlier bail proceedings, in response to a mere verbal query from the Court, the Investigating Officer, without discovery of any fresh incriminating material, arbitrarily substituted Section 408 IPC with Section 420 IPC in the chargesheet. This alteration, it is submitted, was done solely to portray the offence as graver and thereby frustrate the applicant's right to bail reflecting arbitrariness on the part of the IO.

4.3 The applicant's previous bail applications were dismissed by the learned JMIC, Tis Hazari Courts and subsequently by the learned ASJ, Tis Hazari Courts *vide* orders dated 06.08.2025 and 11.08.2025 respectively. Both orders were premised exclusively on two considerations - first, that the alleged offence is "serious in nature," and second, that there exists a possibility of the applicant influencing 27 alleged transferees, who are stated to be family and friends of the applicant, as per the IO's report.

4.4 Except for these speculative apprehensions, no substantive reasoning has been recorded in either order. The courts below, it is contended, mechanically accepted the IO's version without appreciating that seriousness of an offence alone is not a ground to deny bail, and that bail cannot be refused on mere conjecture or unsubstantiated apprehensions. Reliance is placed on ***Sanjay Chandra v. CBI, (2012) 1 SCC 40 and P. Chidambaram v. ED, (2019) 9 SCC 24***.

4.5 The courts below further failed to consider the applicant's specific contentions regarding violation of Section 35(4) BNSS and the mandate in

Pankaj Bansal v. Union of India, 2023 SCC OnLine SC 1244, wherein written reasons for arrest must be furnished. The applicant also relies on the principles laid down in ***Satender Kumar Antil v. CBI, (2022) 10 SCC 51*** and ***Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273***, which discourage arrest in offences punishable up to seven years.

4.6 It is further contended that the learned courts below erred in denying bail despite clear grounds of parity with co-accused Amar and Navjot, who are named in Column 13 of the chargesheet as responsible for the alleged transactions but were not arrested.

4.7 The IO's assertion that "27 persons are yet to be interrogated" cannot justify continued incarceration of the applicant after filing of the chargesheet, particularly when no material has been produced to show how the applicant, whether in custody or on bail, could influence any of these persons most of whom reside outside Delhi. Mere apprehension cannot substitute proof.

4.8 The applicant is 26 years of age, a first-time offender, and the sole breadwinner of his family. He is a permanent resident of Delhi with deep social roots and clean antecedents. The applicant undertakes to comply with any condition imposed by this Court, including non-contact with any of the 27 individuals referred to by the IO.

4.9 In these circumstances, where investigation is complete, chargesheet filed, and no further custodial interrogation required, continued detention serves no purpose.

5. The learned APP for the State, opposing the bail plea, submits that records from 2022-2024 clearly indicate diversion of company funds into

accounts of the applicant's relatives, with subsequent re-transfer into his own account. It is further submitted that the applicant did not cooperate during investigation and failed to facilitate recovery of the misappropriated funds. Reliance is placed on prior bail rejections dated 06.08.2025 and 11.08.2025. The learned APP contends that if released, the applicant may influence or intimidate the remaining individuals yet to be examined. Accordingly, it is urged that the present bail application be dismissed.

6. Having considered the rival submissions and perused the material on record, I find that while certain arguments advanced by the applicant's counsel may have merit, such aspects pertain to the merits of the case and shall be determined during trial. Nevertheless, at this stage, in view thereof and for other reasons set forth herein after, I am of the opinion that the applicant deserves to be enlarged on bail pending trial.

7. Learned counsel for the applicant has drawn my attention to the TDS certificates annexed with the bail application (Annexure A), contending that the complainant company's officials were fully aware of the amounts remitted to the concerned accounts and that proportionate TDS deductions were duly made. Fastening exclusive liability upon the applicant appears to be misplaced in light of the said documentary evidence.

8. These observations are, however, confined to the limited purpose of adjudicating this bail application, and the trial court shall independently assess the evidence at the appropriate stage. Suffice it to observe that the case for bail is made out.

9. The applicant has remained under incarceration since 11.05.2025 a period of nearly five months. Investigation is concluded, the charge-sheet

has been filed (19.07.2025), and the trial is progressing slowly. Prolonged incarceration at this stage would cause undue hardship and serve no legitimate purpose, particularly when the trial is unlikely to conclude in the near future. It is a settled principle that bail is the rule and jail is the exception.

10. The apprehension of evidence tampering or witness intimidation appears unsubstantiated and speculative. The applicant has cooperated throughout the investigation, and there is no material on record to suggest he would abscond, interfere with evidence, or influence witnesses.

11. The applicant, aged about 26 years, is in the prime of his life, with no prior criminal record. He is the primary breadwinner of his family, which depends on him for livelihood and support.

12. Considering that the principal purpose of bail is to secure the presence of the accused during trial, and noting the applicant's clean antecedents, permanent residence, and absence of flight risk, further detention would amount to pre-trial punishment. Accordingly, the applicant merits release on bail.

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. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any

manner, as any expression on the merits of the pending case, and the trial shall proceed without being influenced either way by the same.

15. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

OCTOBER 10, 2025
rs/nk