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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3736/2024**
SUDHIR SHARMAPetitioner

Through: Mr. Shambhu Datt Sharma and Mr.
R.P.S. Bhatti, Advocates.

versus

THE STATE (GOVT OF NCT OF DELHI)Respondent

Through: Mr. Amit Ahlawat, APP with Ms.
Babita Ahlawat, Advocate.
SI Mukesh Chauhan, SI, P.S. EOW.
Ms. Tanu Singhal, Mr. Deepak
Kumar, Mr. Deepak and Mr.
Mritunjay Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **17.04.2025**

1. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023¹ (earlier Section 439 of the Code of Criminal Procedure, 1973²) seeks regular bail in FIR No. 10/2010 under Sections 406, 420 and 120B of the Indian Penal Code, 1860³ registered at P.S. Economic Offences Wing, Delhi. Following the investigation, a chargesheet was filed and the Trial Court has since framed charges against the Applicant under Sections 409, 467, 471 and 174-A, read with 120-B of the IPC.

2. The case of the prosecution, in brief, is as follows:

2.1 The FIR was registered on a complaint filed by Mr. Edwin I. Logo, who alleged that he came across an advertisement in the *Times of India* inviting investments in SR Cabs Pvt. Ltd. The Complainant stated that upon

¹ "BNSS"

² "Cr.P.C."



contacting one Ms. Shilpi Gambhir, he was persuaded to invest in the company, which claimed to lease vehicles to multinational companies and BPOs. Pursuant to the scheme offered, the Complainant invested ₹8.82 Lakhs in SR Cabs on 27th March, 2009, through cheques for seven Tata Indica vehicles. He was promised a monthly return of ₹7,600 per vehicle for five years, along with a resale value of ₹60,000 at the end of the term.

2.2 On 2nd April, 2009, the complainant received documents and seven Post-Dated Cheques⁴. Only two cheques were honoured; the rest were returned unpaid. On seeking clarification, the Complainant was assured by the Directors of SR Cabs, including the Applicant herein, that the issue was temporary. However, upon discovering that other investors had faced similar defaults, and learning that the company had closed its office, and its directors had become untraceable, he lodged a complaint, leading to registration of the FIR.

2.3 The investigation revealed that numerous investors had been similarly defrauded. Sixteen victims were examined, and they produced agreements, payment receipts, bank statements, PDCs, and return memos. It was found that a total of ₹67,11,700/- had been invested by these victims in SR Cabs.

2.4 As per the ROC records, SR Cabs was incorporated on 29th February, 2008, but its office was shut down by July 2009. The company had failed to file its balance sheets and annual returns, suggesting it had no legitimate business operations and was merely a vehicle to solicit funds under false pretences. Furthermore, since the company was taking Non-Banking

³ “IPC”

⁴ “PDCs”



Financial Investments⁵ from the public, the Reserve Bank of India was approached to verify whether SR Cabs was registered as a Non-Banking Financial Company⁶. The RBI confirmed that the company held no such registration or authorisation.

2.5 The Applicant was one of two directors of SR Cabs, holding 500 equity shares. Two bank accounts, one each with Axis Bank and ICICI Bank, Paschim Vihar Branch, were found linked to the company. Both the Applicant and co-director Ravi Kumar were the authorised signatories to these accounts, as confirmed by KYC records obtained from the banks.

2.6 Analysis of the bank statements revealed a pattern: (A) investor funds were collected through cheques and cash, (B) initial returns were paid to investors to inspire confidence, and (C) the funds were later siphoned off to the directors' personal accounts or withdrawn in cash. Pertinently, no banking transactions reflected any commercial activity relating to vehicle leasing.

2.7 Efforts were made to trace the accused persons (directors of SR Cabs – including the Applicant), however, they deliberately avoided the process of law. The copy of their driving licences obtained from the banks and submitted for verification were found to be forged, as confirmed by the Transport Department, Mayur Vihar.

2.8 The MLO Taxi Unit, Burari, was asked to verify if any vehicles were registered under the company's name. It responded that no such vehicles were registered.

2.9 Records from the Income Tax Department showed that the accused

⁵ "NBFI"

⁶ "NBFC"



had not filed any income tax returns. Efforts to trace them through PAN and NSDL records also proved futile.

2.10 In view of the foregoing findings, Sections 464 and 467 of the IPC were added during the course of investigation. Additionally, as the forged documents were used to open bank accounts in the name of SR Cabs and submitted before various government authorities, Section 471 IPC was also invoked against both directors of the company, including the Applicant.

2.11 Initially, Ms. Shilpi Gambhir was also arrayed as an accused. However, as the investigation did not reveal any suspicious transactions involving her personal accounts, she was listed as a suspect in Column 12 of the chargesheet.

2.12 Despite efforts, the Applicant and co-accused Ravi Kumar evaded investigation. Raids were conducted at three known addresses, but the Applicant could not be traced. Eventually, on 17th October, 2016, both were declared Proclaimed Offenders by the Trial Court.

2.13 The Applicant was apprehended on 29th March, 2023, after fresh information was received. During police custody, he admitted that he and Ravi Kumar incorporated SR Cabs on 19th February, 2008, operated from Paschim Vihar, and issued advertisements calling for public investments. He confirmed that the funds were collected from investors and deposited in company accounts, of which both he and Ravi were signatories. He also confirmed that they later transferred the money to their personal accounts and discontinued operations by mid-2009 after switching off their phones and closing the office.

2.14 The Applicant further admitted that the company was neither registered with RBI as an NBFC nor filed statutory returns with the ROC.



He confessed that investors were defrauded through schemes designed to extract money, and that the company committed criminal breach of trust by diverting the funds.

2.15 Handwriting and signature specimens were sent to the Forensic Science Laboratory⁷, Rohini, but the opinion returned inconclusive. No additional signature samples could be located, and the FSL report was filed before the Trial Court through a supplementary chargesheet.

2.16 After arrest, the Applicant submitted a disability certificate bearing an address that had earlier been declared untraceable. The Investigating Officer recorded the statement of the owner of the said property, Mr. Harish Kumar, who confirmed that the Applicant had vacated the premises in 2006 and that multiple individuals had visited the property later, in connection with money-related grievances. Police officials also visited on several occasions, but the Applicant was never found at the said address.

2.17 Based on the evidence collected, the Trial Court has framed charges against the Applicant under Sections 409, 467, 471, 120-B, and 174-A of the Indian Penal Code.

3. Counsel for Applicant, urges the following grounds for seeking bail:

3.1 The Applicant, a law-abiding citizen with clean antecedents, resident of Delhi for more than 30 years, has been falsely implicated in the present case. The investigation is complete; both the chargesheet and supplementary chargesheet have been filed. No recovery has been effected from the Applicant.

3.2 The Applicant is not the same Sudhir Sharma who was named as a director of SR Cabs and mentioned in the FIR. The Applicant denies any



involvement with the affairs of SR Cabs or the alleged fraudulent transactions. The prosecution has failed to produce cogent evidence to establish any connection between the Applicant and the offences in question. In particular, no money trail has been drawn linking the Applicant to the funds allegedly collected from investors.

3.3 The original complaint, on the basis of which the FIR was registered, does not contain any direct allegation against the Applicant. The Complainant named only Ms. Shilpi Gambhir and her husband, Mr. Sandeep Gambhir. The Complainant specifically stated that he had interacted solely with Ms. Shilpi and later received a call from a person who identified himself as Sudhir Sharma and had a distinctively gruff voice. The Complainant identified, Sandeep's voice as matching that of the caller who had posed as Sudhir Sharma. He further stated that the real photo of Sudhir Sharma suggests a middle age man and not an elderly person as the voice on call indicated, however, he further submitted that although Sandeep is a young person, he has a characteristic old throaty voice. The police also seized Sandeep's phone, which allegedly contained incriminating material including investor call logs and lists. The Complainant specifically alleged that it was Sandeep who impersonated the director and carried out the fraudulent operation along with Shilpi.

3.4 The Applicant's identity has been misused by Shilpi Gambhir and Sandeep Gambhir, with whom he had no association. There is no material on record to suggest that the Applicant ever met any investor, solicited funds, or participated in the alleged scheme. Yet, the police failed to pursue the real culprits and instead proceeded to arrest the Applicant without

⁷ "FSL"



sufficient basis.

3.5 Reference is made to the statement of Mr. Pradeep Dahiya, landlord of the premises where SR Cabs allegedly operated. In his statement recorded under Section 161 CrPC, Mr. Dahiya stated that while he had rented the premises to someone named Sudhir Sharma, the individual shown to him in the photograph (i.e. the present Applicant) was not the same person. He also noted that the person to whom he had rented the premises did not appear to be physically handicapped.

3.6 The documents provided by the victims as well as the documents seized by IO of the case - i.e. the opening form of the bank accounts of SR Cabs, ROC documents, etc, do not bear the signatures/hand writing of the Applicant. In the FSL report, which has come back as conclusive, the Forensic Experts specifically stated that the sets of signatures provided by the prosecution do not match. Moreover, the photograph on the fake Driving License issued in the name of Sudhir Sharma, which the prosecution seeks to rely upon, does not resemble the Applicant. The signature on the licence also does not match the Applicant's admitted signature.

3.7 Thus, there is no credible evidence to implicate the Applicant. The entire case, it is urged, stems from a case of mistaken identity, the Applicant's name and credentials having allegedly been misused by Shilpi and Sandeep to perpetrate fraud upon unsuspecting investors.

3.8 The Applicant has been in judicial custody since his arrest on 29th March, 2023. He is a senior citizen and handicapped person with 84.8% disability. Considering his advanced age and medical condition, there is no apprehension of flight risk or of his tampering with evidence or influencing any witness.



4. On the other hand, Mr. Amit Ahlawat, APP for the State opposes the grant of bail, placing reliance on the facts narrated above and urging the following grounds:

4.1 The investigation has revealed the Applicant's active role in fraudulently opening bank accounts in the name of SR Cabs using forged documents and inducing members of the public to invest in a fictitious vehicle leasing scheme. After collecting substantial funds from investors, the Applicant, along with his associates, abruptly shut down operations and absconded. All the complainants/victims in their statements under Section 161 of Cr.P.C. have stated that were allured to invested money in SR Cabs and later came to know that the accused company and certain accused persons had misappropriated all of their funds without any authorization and fled, thereby committing criminal breach of trust and causing wrongful loss to them. Therefore, although the accused company – SR Cabs is a separate legal entity from its directors, the corporate veil can be lifted to reveal the real culprits who have committed such offences. Being a Director of SR Cabs, the Applicant was entrusted with the investments made by the Complainants, which was later fraudulently misappropriated. Therefore, his role in the commission of the offence is clear.

4.2 Moreover, the Applicant poses a serious flight risk and that his past conduct demonstrates an attempt to evade the process of law. He remained untraceable for over seven years and was apprehended only after having been declared a Proclaimed Offender⁸ by the Trial Court in 2016. The trial is presently at the stage of prosecution evidence, with witness statements being recorded. In these circumstances, the State apprehends that if released on



bail, the Applicant may tamper with evidence or attempt to influence witnesses.

5. The Court has considered the submissions of the parties. The principal defence raised by the Applicant is that he is not the same Sudhir Sharma who is named as a director of SR Cabs and that his identity was fraudulently misused by unknown persons to lure investors and misappropriate funds. As such, the key piece of evidence in the present case is the forensic analysis report of the signatures on the purported documents specimens used in the registration of the accused company, opening of the company's bank accounts, PDCs etc, as compared to the admitted signature specimens of the Applicant.

6. In this regard, the prosecution has placed reliance on a forensic report submitted along with the supplementary chargesheet in 2023. The report notes that the admitted signatures of the Applicant differ from those on the questioned documents. However, the report also mentions that since there is a time gap of approximately 10-14 years between the execution of the documents and the specimen signatures provided, the comparison is unsuitable for a conclusive opinion. While the prosecution stated it would obtain further admitted signatures of comparable age and format, no additional samples have been secured, nor has any updated forensic opinion been filed thereafter. In the *prima facie* opinion of this Court, this delay in resolving a critical aspect of the investigation, particularly where the Applicant consistently denies any involvement, pivots in favour of the Applicant. The initial report, which does not support the prosecution's claim, cannot be disregarded lightly in such circumstances.

⁸ "PO"



7. As per the case of the prosecution, at the time of opening of the alleged bank accounts of SR Cabs and at the time of submission of ROC documents, the directors of the said company – allegedly including the Applicant – had given fake identity proofs such as driving license and Pan Card, which were later obtained by the police during investigation and were subsequently filed along with the original chargesheet. Pertinently, these identity proofs are fake and fabricated as the face of the person who appears in the photograph affixed on these documents is not that of the Applicant. There is thus a possibility that someone has misused his identity to develop these fake documents and submit them to the authorities for registration of the accused company and opening of its bank accounts. The Court has perused the file, which contains the copy of the Applicant's original Aadhar card as well as the fake driving license and PAN card obtained by the police from the relevant authorities. On a bare glance, it is evident that the Applicant is not the person whose photographs are on the purported fake identity proofs. Therefore, on a *prima facie* basis, there is merit in the contention of the Applicant that his identity may have been stolen by someone.

8. Furthermore, one of the key contentions of the prosecution is that once investor funds were deposited in the bank accounts of SR Cabs, the Applicant and the co-accused misappropriated the money by transferring it to their personal accounts or withdrawing it in cash. However, the investigation has not yielded any documentary trail conclusively establishing such transfers by the Applicant. There is no transfer into his bank account. On a specific query posed by the Court, the Investigating Officer, who is present in Court, confirmed that no effort was made to trace



cash withdrawals to the Applicant, whether by examining CCTV footage of ATM withdrawals or by obtaining withdrawal forms bearing signatures from the relevant bank branches for forensic comparison.

9. In the above circumstances, at this stage, the Court *prima facie* finds that there is no direct or credible evidence that links the Applicant to the receipt or diversion of the funds in question. The forensic inconclusiveness, the absence of a verified money trail, and the lack of signature corroboration collectively weigh in favour of granting the benefit of doubt to the Applicant at this stage.

10. It is also relevant to note that in the instant case, the FIR was registered in the year 2010, and the investigation was completed only in 2024. Moreover, while the Applicant was arrested on 29th March, 2023, charges were framed against him only on 29th July, 2024, following the submission of the supplementary chargesheet. Although the trial is underway, it is presently at the stage of prosecution evidence. Out of over 34 witnesses cited by the prosecution, only 10 have been examined so far. The likelihood of early conclusion of the trial appears remote.

11. It is trite law that the object of bail is neither punitive nor preventative. The Supreme Court has consistently held pre-trial detention is not to be used as a substitute for punishment; that primary aim sought to be achieved by bail is to secure the attendance of the accused person at the trial⁹. The Applicant herein is a person with disability, who has been issued a permanent disability certificate dated 24th January, 2003 from LBS Hospital. Subsequently, the Applicant's disability has been assessed and

⁹ See also: **Sanjay Chandra v. CBI**, (2012) 1 SCC 40; **Satender Kumar Antil v. Central Bureau of Investigation**, (2022) 10 SCC 51.



confirmed by the Deen Dayal Upadhyay Hospital, and he has been found to be disabled in relation to left upper limb and left lower limb. Moreover, he has been in custody since March 2023, and he has spent approximately 2 years in custody as an undertrial. As regards the contention of the prosecution that in case the Applicant is released on bail, he may abscond considering that he was a declared PO for 7 years, in the opinion of the Court, suitable bail conditions can be imposed on the Applicant to ensure his presence during trial.

12. Therefore, in light of the above, the instant application is allowed, and the Applicant is directed to be released on bail, on furnishing a personal bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the Jail Superintendent/ Trial Court/ Duty Metropolitan Magistrate, on the following conditions:

- a. The Applicant shall cooperate in any further investigation as and when directed by the concerned IO;
- b. The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- c. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;
- d. The Applicant shall appear before the Trial Court as and when directed;
- e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;



f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

g. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application 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.

14. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

APRIL 17, 2025/as