



2025:DHC:2615



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

Pronounced on: 16.04.2025

+ **BAIL APPLN. 3755/2024**

GURPREET SINGH @ BAWA @ BABA

.....Petitioner

Through: Mr. Rajiv Mohan, Mr. Hirein Sharma,
Mr. Rishabh Bhati and Mr. Shivender
Gupta, Advs.

versus

STATE GOVT.OF NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for State with Insp.
Naresh Malik, IFSO/Special Cell.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The present petition has been filed by the petitioner under Section 483 of BNSS, 2023 seeking regular bail in connection with FIR No.14/2022 under Sections 406/467/468/471/420/170/120B of the IPC registered at Police Station Special Cell.
2. The case of the prosecution in brief is that complainants (i) Sh. Brijmohan Goyal, (ii) Sh. Ashok Kumar Goyal and (iii) Sh. Devender Kumar jointly filed a complaint alleging therein that they all are partners at business and during the year 2018, they jointly made a bid for 3 plots of DDA. They succeeded in the bid but they backed out from purchasing the auctioned properties. Due to backing out, their money that was deposited by them in DDA i.e. 5% of the total cost was forfeited by DDA. After some time, complainant Ashok Kumar was approached by accused Gurpreet Singh



Shahni @ Baba @ Bawa (petitioner herein) who assured the complainants that some DDA officials were known to him and he would get back their forfeited amount. He introduced his co-accused cousins Gurpreet Singh Anand @ Vinny and Amandeep @ Aman Anand.

3. After some days, accused persons Gurpreet Singh Shahni @ Baba @ Bawa, Gurpreet Singh Anand @ Vinny and Amandeep @ Aman Anand approached the complainants and told them that there is a DDA property at Lawrence Road admeasuring 334.45 Sq. Meters and if the complainants purchase this, their previous forfeited amount shall be adjusted therein. The complainants agreed for the same and the above-mentioned accused persons showed this property on an online DDA portal, and confirmed the property in the complainants' name. Thereafter, accused persons asked for more money from complainants in the name of preparing the final documents such as Possession Slip, Conveyance deed etc. of this property.

4. Meanwhile, above-mentioned accused persons introduced the complainants to another accused Anil Kumar as a DDA officer and assured the complainants for the property. After some time accused persons again approached complainants in the name of allotting more DDA properties. Accused persons forged and fabricated documents of 25 properties which were handed over by the accused persons to complainants.

5. Later on, complainants became suspicious of the activities and they filed a complaint alleging that the accused persons had cheated the complainants to the tune of Rs. 55 Crores (approx.) on the pretext of getting them properties allotted from the DDA. Hence, the present case was registered and investigation was taken up.

6. Mr. Rajeev Mohan, the learned counsel appearing on behalf of



petitioner at the outset submits that the petitioner is in custody since 01.05.2023, the first chargesheet was filed on 24.02.2023 and cognizance was taken on the same date by the learned ACMM. Subsequently, a supplementary chargesheet was filed on 28.07.2023. According to Mr. Mohan, charges have not been framed and there are over 100 witnesses mentioned in the chargesheets. Therefore, the conclusion of the trial is nowhere in sight. He places reliance on the decision of the Hon'ble Supreme Court in *Manish Sisodia v. Directorate of Enforcement*, 2024 SCC OnLine SC 1920, to contend that keeping the petitioner behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive the petitioner his fundamental right to liberty under Article 21 of the Constitution. He submits that since the petitioner has been deprived of his right to speedy trial, therefore, the petitioner is entitled to be enlarged on bail.

7. He submits that the evidence is documentary in nature. Therefore, there is no risk of petitioner tampering with evidence or influencing the witnesses.

8. He contends that petitioner does not have any prior criminal involvement, therefore, he is not a flight risk. He further contends that the case of the prosecution is that the document used for the purpose of cheating were recovered from the possession of the complainant and the complainant stated that these documents were provided by the accused persons. However, there is no evidence to establish any connection between the said documents and the petitioner.

9. He further submits that complainants' allegations are flawed from the outset. Elaborating on his submissions, Mr. Mohan submits that as per the



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complaint and the FIR, the petitioner approached the complainants in the year 2018 after they succeeded in the bid 5% of the bid amount deposited by them was forfeited by the DDA and gave false assurance that he could assist them recovering the forfeited amount from the DDA. However, the e-mail sent by the DDA to complainants clearly mentions that auction was held on 22.01.2019 which falsifies the contention that the petitioner had approached the complainants in the year 2018.

10. He submits that complainants claimed that they issued a total 67 demand drafts in favour of the DDA and handed them over the accused persons including the petitioner, but the chargesheet mentions that 52 of these demand drafts totaling to Rs.13,82,48,586/- were credited to the Central Bank of India account of the DDA. He submits that these 52 demand drafts have not been accounted for against any specific property which fails to link it with any particular property transaction and to establish any connection with the petitioner or any of the accused.

11. He submits that the only evidence to show that cash was given to the petitioner is the signature appearing on certain pages of the diary submitted by the complainants to the Investigating Officer claiming that it contains records of cash transaction involving the petitioner. He submits that there is no clear description or reference to the nature of transactions in the alleged diary nor the diary indicates as to which properties the transactions are associated with.

12. Without prejudice to the foregoing submission, Mr. Mohan contends that diary in the present case cannot be treated as an admissible piece of evidence unless it meets necessary criteria laid under Section 34 of the Indian Evidence Act.

13. He contends that the complainants have described the case as



multi-victim situation claiming that 24 individuals were allegedly defrauded by the accused persons, however, the statements recorded under Section 161 Cr.PC. rather reveals that 24 individuals named as victims are actually the relatives of the complainants which cast doubt on the legitimacy of the claims.

14. He submits that none of the documents which is stated to be forged contains handwriting or signature of the petitioner or any other accused person. According to Mr. Mohan, the charge of forgery cannot be imposed on a person, who is not the maker of the forged documents. To buttress this contention reliance is placed on the decision of *Sheila Sebastian vs. R. Jawaharaj and Another, (2018) 7 SCC 581*.

15. *Per contra*, Mr. Utkarsh, the learned APP appearing on behalf of the State has argued on the lines of the status report. He submits that the present case is a multi-victim fraud.

16. He repelled the submission that petitioner is not a flight risk and submits that there is a possibility that petitioner will flee from justice, in case he is enlarged on bail. Elaborating on this submission, he submits that earlier the petitioner was declared as proclaimed offender and the process under Section 82 CrPC was initiated against him and thereafter, he was arrested.

17. He submits that petitioner is a neighbour of the complainant Ashok Kumar Goyal and is working as a property dealer and is known to be instrumental in allocation of DDA plots. He submits that even during the investigation the petitioner tried to mislead the investigation and hence there is a strong possibility that if he is released on bail, the petitioner would indulge in tampering of evidence or influencing / threatening the witnesses. In these circumstances, learned APP submits that present petition for grant of



regular bail be dismissed.

18. I have heard learned counsel for the petitioner as well as learned APP for the State and have perused the record.

19. This Court is conscious of the fact that allegations against the petitioner are of cheating and forgery and if found guilty, the punishment for the offence under Section 420 IPC may extend to 7 years and for the offence under Section 467/468/471 it may extend up to 10 years or life imprisonment. At the same time, it is yet to be adjudicated and established during trial as to what was the exact role of the petitioner in the alleged offence.

20. There might be some substance in the submissions of Mr. Rajiv Mohan that – (i) the case is wrongly being projected as multi-victim case whereas the alleged victims are, in fact, close relatives of the complainants, (ii) the 52 out of 67 demand drafts have not been accounted for against any specific property which fails to link it with any particular property transaction and establish any connection with the petitioner or any of the accused, (iii) none of the documents which is stated to be forged contains handwriting or signature of the petitioner or any other accused person, (iv) the incriminating material in the form of diary containing various entries cannot be treated as an admissible piece of evidence unless it meets necessary criteria laid under Section 34 of the Indian Evidence Act, and (v) that there is contradiction as to the year in which the petitioner approached complainant. Therefore, these submissions cannot be brushed aside altogether. However, at this stage when the charges have not been framed and the trial has not even commenced, it will not be appropriate for this Court to comment, even *prima facie* as to whether the ingredients of the offences alleged are made out or not, or on the probative value of the evidence, documentary or otherwise, which has been made part



of the chargesheet. Such an exercise will be undertaken by the learned Trial Court at the appropriate stages. Further, any observation by this Court at this juncture can prejudice the case, both of the petitioner as well as of the prosecution.

21. This Court, however, cannot be unmindful of the fact that petitioner has been incarcerated for almost 23 months. The investigation is complete and the chargesheet has been filed, therefore, the custody of the petitioner is no more required. Further, although the chargesheet has been filed, but the charges have not been framed. It is also not in controversy that the prosecution has cited over 100 witnesses in the chargesheet. Therefore, there does not appear to be possibility of conclusion of trial any time in near future.

22. In *Sanjay Chandra v. CBI, (2012) 1 SCC 40*, which was also a case of economic offence, the Hon'ble Supreme Court observed that the primary purposes of bail in a criminal case are to relieve the accused of imprisonment and to keep him in the constructive custody of the court, to ensure that he is available whenever his presence is required. Further, having regard to the fact that the investigating agency had completed the investigation, the charge-sheet stood filed and further custody was not necessary, the appellant therein was granted bail pending trial on stringent conditions. The relevant extract from decision reads thus:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that



punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. Detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In India, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the propose of giving him a taste of imprisonment as a lesson.

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40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed



investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

(emphasis supplied)

23. In *Satender Kumar Antil vs. State of Maharashtra*, (2022) 10 SCC 51, the Hon’ble Supreme Court in the context of the economic offences, deprecated the approach of deciding the bail applications strictly, contrary to legal principles. Paras 93 and 94 of the said decision are relevant:

“93. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

94. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the criminal courts. Any conscious failure by the criminal courts would constitute an affront to liberty. It is the pious duty of the criminal court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest.”

(emphasis supplied)

24. In *Manish Sisodia v. Directorate of Enforcement*, 2024 SCC OnLine SC 1920, the Hon’ble Supreme Court was considering the bail plea under the PMLA. Having regard to the custody period of 17 months of the appellant



therein, the likely delay to be expected in conclusion of trial, the voluminous documents relied upon by the prosecution and the number of witnesses, the Court observed that the appellant therein cannot be kept behind bars for an unlimited time in the hope of completion of speedy trial which would deprive the fundamental right to liberty under Article 21 of the Constitution. The relevant para reads as under:

“54. In the present case, in the ED matter as well as the CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitized documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.”

25. Reference may also be had to yet another decision of Hon'ble Supreme Court in ***Ramkripal Meena vs. Directorate of Enforcement, 2024 SCC OnLine 2276***, wherein considering the custody period of the petitioner being more than one year and there being no likelihood of conclusion of trial within a short span, it was observed that rigours of Section 45 of the PMLA can suitably be relaxed to afford conditional liberty to the petitioner. The relevant para reads as under:

“7. Adverting to the prayer for grant of bail in the instant case, it is pointed out by learned counsel for ED that the complaint case is at the stage of framing of charges and 24 witnesses are proposed to be examined. The conclusion of proceedings, thus, will take some reasonable time. The petitioner has already been in custody for more than a year. Taking into consideration the period spent in custody and there being no likelihood of conclusion of trial within a short



span, coupled with the fact that the petitioner is already on bail in the predicate offence, and keeping in view the peculiar facts and circumstances of this case, it seems to us that the rigours of Section 45 of the Act can be suitably relaxed to afford conditional liberty to the petitioner. Ordered accordingly. ”

26. In view of above legal position, and taking into consideration that the petitioner has also been incarcerated for 23 months and the conclusion of trial is nowhere in sight, the petitioner cannot be kept in custody for indefinite period to await the outcome of trial which has not yet commenced, as it would deprive the petitioner of his fundamental right of liberty in the hope of speedy trial.

27. Insofar as the submission of the learned APP that the petitioner was arrested only after he was declared proclaimed offender and process under Section 82 Cr.P.C. was initiated against him, suffice it to state that the investigation is now complete and the chargesheet stands filed. The present case is otherwise based on documents and all incriminating documents have already been recovered by the Investing Agency and made part of the chargesheet. Therefore, there is hardly any possibility of petitioner tampering with the evidence or influencing the witnesses. Still a condition can be imposed to deter the petitioner.

28. Insofar as the apprehension expressed by the learned APP as regards the petitioner being a flight risk, same can be allayed by putting stringent conditions.

29. Having regard to the aforesaid circumstances and keeping in perspective the law laid down by the Hon'ble Supreme Court, this Court is of the view that petitioner is entitled to grant of bail.

30. Accordingly, petitioner is admitted to regular bail subject to furnishing



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a personal bond of Rs.1,00,000/- with one surety of the like amount to satisfaction of the learned Trial Court/JMFC/Duty JM, further subject to the following conditions:

- (a) Petitioner shall report to the concerned Investigating Officer on every second Saturday of the month and in case the IO is not available, he will report to the Duty Officer, between 04:00 p.m. to 05:00 p.m. The petitioner will, however, not be kept waiting beyond 5.00 p.m. on the day he reports.
- (b) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- (c) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
- (d) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the complainants or any other witnesses.

31. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on merits of the case.

32. The petition stands disposed of.

VIKAS MAHAJAN, J

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