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

+ **BAIL APPLN. 3919/2024**

RAJNEESH SHARMA

.....Petitioner

Through: Mr. Rizwan, Mr. Varun Narang, Ms.
Nistha Sinha, Ms. Sachi Chopra and
Mr. Manik Dhingra, Advocates

versus

STATE GOVT. OF NCT, DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with SI Mohit Kumar, PS: CR Park

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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04.03.2025

1. The present application has been filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking grant of Regular Bail to the accused/Applicant in the FIR No.0171/2019 dated 07.11.2019 registered under sections 420/406 of the Indian Penal Code, 1860 (IPC) at Police Station (P.S) Chitranjan Park, South District, Delhi.
2. The brief facts relevant to the adjudication of the present application, as derived from the status report dated 19.11.2024, are as follows: The subject FIR was registered on the complaint of one Issac Paul ('Complainant'). It is stated that the Complainant was induced by the Applicant with promises of substantial returns on investments in the Applicant's business. It is stated that the Applicant purportedly represented himself as a businessman engaged in the car/taxi rental business. It is stated that, acting on the Applicant's inducement, the Complainant initially made



small investments, which were repaid ahead of time along with substantial returns.

2.1 It is stated that, after gaining the Complainant's trust, the Applicant induced him to make a larger investment. It is stated that relying on the Applicant's assurances, the Complainant invested a sum of Rs. 25 lakhs in cash, however, upon receiving the said amount, the Applicant allegedly began to evade the Complainant. It is stated that when confronted, the Applicant purportedly informed the Complainant that he had no money but, in lieu of the invested amount, offered to transfer ownership of a property bearing No. J-1/183, DDA Flat, 1st Floor (without terrace), Kalkaji, New Delhi ('DDA flat') to the Complainant. It is stated that the Complainant accepted this arrangement.

2.2 It is stated that, subsequently, on 04.06.2013, an Agreement to Sell (ATS) was executed between the Applicant and the Complainant, followed by a General Power of Attorney (GPA), Will, Affidavit, Special Power of Attorney (SPA), and Receipt, all dated 04.06.2013, in respect of the aforementioned property. It is stated that the Applicant assured the Complainant that a sale deed would be duly executed before the Registrar's office however, in the interim, the Complainant discovered that the Applicant had fabricated the property documents and had sold the property to another individual, leading to the registration of the present FIR.

2.3 It is stated that during the course of the investigation, a witness to the documents executed by the Applicant in favor of the Complainant was interrogated. The witness confirmed that the documents were indeed signed by the Applicant in his presence. It is stated that during investigation it was disclosed by Rajeev Kumar Ganglani, the present owner of the property in



question, that he has purchased the said property from one Smt. Geeta Jain through GPA 10.01.2018. He states in the recital of the said GPA the complete chain of the transaction of the said property was mentioned, as per the recitals one Mohal Lal sold the said property to Applicant herein on 05.11.2011, the Applicant further sold it to one Manjeet Singh through GPA dated 18.10.2016 and thereafter Manjeet Singh sold it to Geeta Jain through registered ATS dated 27.11.2017.

2.4 It is stated that as part of the investigation, the Complainant provided four addresses linked to the Applicant, namely:

- i. Flat No. J-1/183, First Floor, DDA Flats, Kalkaji, New Delhi;
- ii. House No. E-351, First Floor, Greater Kailash-2, New Delhi;
- iii. E-262, LGF, East of Kailash, New Delhi; and
- iv. Village Bhangala, District Hoshiarpur, Punjab.

2.5 It is stated that the police conducted searches at all the aforementioned locations; however, the Applicant could not be located. Consequently, vide order dated 28.10.2022, Non-Bailable Warrants (NBWs) were issued against the Applicant, but they remained unexecuted. Subsequently, by order dated 01.12.2022, the trial court initiated proceedings against the Applicant under Section 82 of the Code of Criminal Procedure, 1973 (CrPC), ultimately declaring him a Proclaimed Offender by order dated 20.02.2023. During the course of further investigation, the Applicant was traced and arrested on 24.08.2024.

Arguments of Applicant

3. The learned counsel for the Applicant submits that the Applicant has been falsely implicated in the present case. He asserts that the dispute between the Applicant and the Complainant is purely commercial, as they



were business associates for over a decade. He contends that the Complainant has deliberately portrayed a civil dispute as a criminal offense to exert undue pressure and extort money from the Applicant.

3.1 He states that the Complainant, being a former police officer, misrepresented facts before the investigating agency to obtain coercive orders against the Applicant. He highlights that the Complainant remained in contact with the Applicant's family even a week prior to the Applicant's arrest and never mentioned the alleged grievance, casting serious doubt on the legitimacy of the allegations.

3.2 He states that for an offense to be established under Sections 420 and 406 of the IPC, there must be an intention to cheat from the very beginning of the transaction. He states that there is no evidence on record to indicate that the Applicant had any dishonest intent at the outset of the business dealings with the Complainant. Therefore, the charges framed against the Applicant are unsustainable.

3.3 He states that the Applicant was never properly served with notices or warrants at his correct residential address, i.e., 122, Second Floor, Sector-27, Gurugram, Haryana-12022, where he has been residing since 2022. He states that the Complainant deliberately provided incorrect addresses, leading to an ex parte declaration of the Applicant as a Proclaimed Offender. He states that, due process under Section 82 CrPC was not followed in declaring the Applicant as a Proclaimed Offender.

3.4 He states that the Applicant suffered a severe accident in February 2024 and underwent multiple surgeries, requiring continuous medical supervision and care. He states that prolonged incarceration would further



deteriorate the Applicant's health, and adequate medical treatment may not be available in the custody.

3.5 He states that the investigation is complete, the chargesheet has been filed, and all material evidence has already been collected by the prosecution. Therefore, keeping the Applicant in custody as an undertrial serves no purpose. He substantiates his argument by citing the order dated 28.08.2024 passed by the learned Trial Court, which declined the Respondent-State's request for police custody, indicating that further custodial interrogation is unnecessary.

3.6 He states that in FIR No. 401/2008 registered at P.S. Defence Colony and FIR No. 187/2018 registered at P.S. Tilak Nagar, Delhi, the Applicant herein was acquitted by the Trial Court.

3.7 Lastly, he submits that the Applicant is not a flight risk and has strong ties to society. During the period of bail, he will reside at Property No. 132, Mahabir Nagar, Ground Floor Enclave-1, Palam Village, PO: Palam Vihar, District: South West Delhi, Delhi-110045. He states that this property has been rented by the Applicant's father, and an affidavit to this effect, along with the rent agreement, has been filed. He states to further eliminate the apprehension of the Respondent-state that the Applicant would jump the bail if allowed by this Court, the father of Applicant is ready and willing to stand as a surety.

Arguments of Respondent-State and Complainant

4. The learned Additional Public Prosecutor (APP), appearing on behalf of the Respondent-State, opposes the grant of bail to the Applicant on the ground that he is a flight risk. To substantiate this argument, he relies on the fact that during the initial stage of the investigation, the Applicant was



absconding, which led to the issuance of Non-Bailable Warrants and the declaration of the Applicant as a Proclaimed Offender.

4.1 He states that the Applicant has a criminal history, citing the Applicant's previous arrests in FIR No. 401/2008 registered at P.S. Defence Colony and FIR No. 187/2018 registered at P.S. Tilak Nagar, Delhi.

4.2 He states that the Applicant has no roots in society. He states that the prior address provided by the Applicant i.e. H. No. 122, Sector-27, Gurgaon, Haryana where he had undertaken to reside, along with a lease deed, was found to be fraudulent. He states that the landlord of the said premises provided a statement to this effect, which was placed on record along with the status report dated 14.01.2025.

4.3 However, he fairly acknowledges that the updated address i.e. Property No. CD-132, Ground Floor, Mahabir Enclave-1, Palam Village, P.O. Palam Vihar, District: South West, Delhi, 110045, taken on rent by the Applicant's father, has been duly verified.

4.4 He states that the Respondent-State had previously opposed the Applicant's bail on the ground that the Complainant's statement had not yet been recorded before the Trial Court, raising concerns that the Applicant, if released on bail, might attempt to influence the Complainant. However, Complainant's examination has now stands completed, as recorded by the Trial Court in its order dated 28.02.2025.

5. Learned counsel for Respondent no. 2, complainant has adopted the submissions advanced by the learned APP.

Findings and Analysis

6. This Court has heard the submissions advanced by the learned counsel for the parties and perused the record.



7. Before delving into the analysis of the facts of this case, it would be apposite to refer to the factors which are to be taken into consideration for granting bail to an accused. The Supreme Court in the case of **Prasanta Kumar Sarkar v. Ashis Chatterjee**¹, **State of Uttar Pradesh v. Amarmani Tripathi**², and **Deepak Yadav v. State of Uttar Pradesh**³ has set out the conditions to be considered by Court while granting bail, which are summarized as under: -

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing, if released on bail;
- (v) character, behavior, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of justice being thwarted by the grant of bail.

8. A perusal of the order sheet reveals that the Applicant's prayer for bail was previously deferred in these proceedings primarily on two grounds: (i) the examination of the Complainant was not concluded; and (ii) the Applicant was considered a flight risk.

9. Regarding the first issue, the prosecution and the complainant has sought deferment so as to ensure that the Applicant does not influence the complainant on being released. The order dated 28.02.2025 passed by the

¹ (2010) 14 SCC 496.

² (2005) 8 SCC 21.

³ (2022) 8 SCC 559.



learned Trial Court records that the Complainant has been examined, cross-examined, and discharged thus, the apprehension concerning the pendency of the Complainant's testimony does not survive for consideration.

10. As for the concern regarding the Applicant being a flight risk, the status report dated 03.03.2025 records that the Applicant's current residential address, where he intends to reside during the period of bail, has been duly verified. Furthermore, Mr. Jagdish Raj Sharma, the Applicant's father, has expressed his willingness to stand as a surety for the Applicant. The Applicant's children study in NCR. In these facts, the apprehension of the State that accused will not join the trial or would jump the bail also stands addressed.

11. Though, the genesis of the complaint is a monetary transaction and the documents executed with respect to the DDA flat, during arguments the counsel for the complainant admitted that complainant was aware in 2016 that the said DDA flat had been sold by the accused to a third party. The complainant contended that the accused in the year 2018 had issued a cheque of Rs. 24 lakhs to the complainant towards the repayment of complainant's dues; however, the said cheque has not been honoured. In these facts, it is a matter of record that complainant was aware about the sale of the DDA flat to a third party in the year 2016 and he released all right title or interest in the said flat and accepted the cheque of Rs. 24 lakhs in the year 2018. Therefore, prima facie at this stage there cannot be any dispute between the parties pertaining to DDA flat; the said documents of year 2013 pertaining to sale of the DDA flat in favour of the complainant, can possibly only be relied upon by the complainant to prove that there was a transaction of payment of monies between the parties and no more. In these facts



whether ingredients of the offence with which the Complainant has been charged would have to be examined at the Trial.

12. The Supreme Court in **Sanjay Chandra v. CBI**⁴ has held that the grant or refusal of bail lies within the discretion of the Court and the object of bail is to secure the appearance of the accused person at trial. The relevant paragraphs of the said judgment are reproduced hereinbelow: -

“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 is 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.

22. From the earliest times, it was appreciated that 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 this country, 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.”

(Emphasis Supplied)

13. In the facts of the present case when the testimony of the complainant has been competed, all material documentary evidence has been collected by the prosecution from the complainant and the accused, the FSL report of the relevant documents has been submitted before the Trial Court and there is no

⁴ (2012) 1 SCC 40



risk of Applicant fleeing from the justice; there is no impediment upon this Court to deny the bail of the Applicant.

14. Accordingly, in light of the above, and keeping in view that the trial in the matter is likely to take some time, in the opinion of this Court it would not be prudent to keep the Applicant behind bars for an indefinite period, and therefore this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the Applicant is directed to be released on bail in FIR No.0171/2019 registered at P.S Chitranjan Park on furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount to be furnished by Mr. Jagdish Raj Sharma subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Applicant will not leave the country without prior permission of the Court.
- ii. Applicant shall reside at Property No. CD-132, Ground Floor, Mahabir Enclave-1, Palam Village, P.O. Palam Vihar, District: South West, Delhi, 110045. The Applicant shall intimate the Trial Court by way of an affidavit and the IO regarding any change in residential address.
- iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.
- iv. Applicant shall join investigation as and when called by the IO concerned.
- v. Applicant shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.



- vi. Applicant will mark presence before the concerned I.O. every 1st and 3rd Saturday of the month, and will be not kept waiting for more than an hour.
- vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
15. In the event of there being any FIR/DD-entry/Complaint lodged against the Applicant during the period of bail, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
16. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.
17. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
18. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
19. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
MARCH 4, 2025/mt/AKT