$~6

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

\+ BAIL APPLN. 4022/2024

PRAMOD GOEL .....Petitioner

Through: Mr. Nishank Tyagi, Mr. Gaurav Jain, Mr. Kishlaya Mudgal, Advocates

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP for the State with Insp. Rakesh Raushan, PS EOW

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% **11.02.2025**

1. The present application under Section 439 of the Code of Criminal Procedure, 1973[1] (Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023[2]) seeks grant of regular bail in proceedings arising from FIR No. 138/2020, under Section 406, 420 and 120-B of the Indian Penal Code, 1860[3], registered at P.S. Economic Offences Wing[4]. Subsequently, a chargesheet was filed against the Applicant, however, cognizance on the offences has not been taken and the same remains pending consideration of the Trial Court.

2. Briefly, the case of the prosecution is as follows:

2.1 On 12th March, 2019, a complaint was received from one Mr. Rohit

---

[1] "CrPC."
[2] "BNSS"
[3] "IPC"
[4] "EOW"

Dhingra[5] alleging that he was approached by the directors of a company named Dream Procon Pvt. Ltd.[6], urging him to invest in their project named 'Victory Ace' in Sector-143, Noida, U.P., by applying for a loan from ICICI Bank Limited. The Complainant was assured that he could apply for a loan from ICICI Bank Limited, and in return, the builder would cover the monthly EMIs on his behalf until the completion of the project. Additionally, the builder promised to repurchase the property and offer returns of 10-20% on the loan amount after completion. The Complainant alleges that he availed a loan of INR 49,56,000/- from ICICI Bank and executed a Memorandum of Understanding[7] with the builder on 19th October, 2016. The agreement guaranteed monthly assured returns of INR 34,829 for a period of two years until the builder exercised the buy-back option. However, after a certain period, the builder stopped making payments, leading to default on the Complainant's loan obligations. Furthermore, it is alleged that the unit allotted to the Complainant was fraudulently re-allotted to another investor, constituting a breach of trust and cheating. Based on these allegations, FIR No. 138/2020 was registered on 23rd September, 2020, implicating the accused company, its promoters, and directors—including the present Applicant, Mr. Pramod Goel.

2.2 During investigation, 26 additional investors/victims approached EOW and formally lodged complaints of a similar nature against the builder. The details of these complainants are set out in the status report filed by the prosecution. Consequently, the statements of all 27 complainants, including Mr. Rohit Dhingra, were recorded under Section 161 CrPC, and supporting

[5] "Complainant"
[6] "Accused company/builder"

documents were collected. Upon examination, it was found that the accused company had received a cumulative amount of INR 31,69,47,379/- from these 27 investors.

2.3 Further investigation revealed that the accused company was undergoing insolvency proceedings, and an Insolvency Resolution Professional[8] had also been appointed by the National Company Law Tribunal[9]. The audit reports and financial records of the company, obtained from the IRP, indicated that the Applicant, Mr. Pramod Goel, had allegedly diverted company funds into other subsidiary or shell companies under his control. The investigation into the suspected siphoning of funds is still ongoing to trace the extent and flow of the misappropriated amounts.

2.4 The audit reports further reveal that while the proposed project was intended to comprise 516 flats, not a single unit has been handed over to the buyers to date. Despite substantial sums being collected from investors for these units, the accused company failed to fulfil its commitments—both in terms of providing assured returns as well as delivering possession within the stipulated timeline.

2.5 The MCA records of the accused company/builder obtained from the Registrar of Companies, indicate that the accused company/builder was incorporated on 25th May, 2011. The co-accused persons - Ms. Savita Goel and Mr. Satish Kumar were the initial directors of the company and later the Applicant became a director. During investigation, all the other directors of the accused company/builder (Mr. Krishan Kumar Gupta, Ms. Savita Goel, Mr. Sandeep Goel and Mr. Anil Gupta) asserted that their role in the accused

---

[7] "MoU"
[8] "IRP"

company was limited to that of an employee and in fact, it was the Applicant who solely controlled the affairs of the company and took all decisions in this regard.

2.6 Since the allegations pertain to a real estate development project under New Okhla Industrial Development Authority[10], response was sought from NOIDA regarding the project's authorization status. In their reply dated 03rd August, 2021, NOIDA categorically clarified that no project by the name of "Victory Ace" of the accused company exists in their records. Further, in terms of authorization regarding the subject parcel of land, NOIDA informed the investigators that the permission was granted by them to the Lessee Company - Logix City Developers Pvt Ltd.[11] for it to sub-divide and allot 2 parcels of land to its subsidiary companies, (1) admeasuring the total area 13961 Sq. meters in favour of Docile Builders Pvt Ltd and (2) admeasuring total area 12486 Sq. meters in favour of Arable Builders Pvt Ltd. However, NOIDA clarified that the permission granted in terms of the 2nd parcel of land was revoked by them due to non-compliance of the relevant guidelines.

2.7 These findings revealed that accused company/builder collected huge sums of money from the general public/victims, without taking any prior permission from NOIDA or even informing them of any transfer of the development and marketing rights of the Lessee company. As evident from the reply received by NOIDA, the accused company was not entitled to develop the project as they never applied to them for approval of the developmental project or for taking necessary permissions from their office.

---

[9] "NCLT"
[10] "NOIDA"

2.8 As part of the investigation, notices under Sections 160 and 91 of the CrPC were issued to the directors of the Lessee company and they were called to join the ongoing investigation. The said directors duly complied and submitted a detailed response, wherein they disclosed that the Lessee company, Logix City Developers Pvt. Ltd., was the sole lessee of the entire land parcel by virtue of a registered lease deed dated 08th June, 2011, executed in its favour by NOIDA. On 08th March, 2013, a Joint Development Agreement[12] was executed between the Lessee company and the accused company, granting the latter development rights over 600,000 sq. ft. of Floor Space Index[13], out of the total available FSI of 29,62,472.32 sq. ft. Under the terms of the JDA, the accused company was authorized to develop, market, and sell a maximum of 516 residential units on 12,486 sq. meters of land.

2.9 From the foregoing, it is evident that the only legal arrangement between the Lessee company and the accused company was the JDA for the purported "Victory Ace" project. Crucially, this agreement was executed without seeking prior approval from NOIDA or even informing the authority. The accused company, despite lacking any statutory authorization to develop the project, deliberately concealed these facts from prospective buyers and induced them to invest under the false pretence of being allotted genuine residential units.

2.10 Further, during the investigation, it was uncovered that the Applicant fraudulently mortgaged 22 units, which had already been allotted to investors/victims, to a financial institution, SMC Moneywise, in exchange

---

[11] "Lessee company"
[12] "JDA"

for a loan of INR 5 Crores.

2.11 The investigation also included a physical inspection of the alleged development site. Upon visitation, it was discovered that while some structural work had commenced, the project remained incomplete, abandoned, and entirely uninhabitable. Given the scale of financial misappropriation, permission was sought from the concerned Court, and the Applicant was subsequently arrested on 10th July, 2024. Following his arrest, the chargesheet was filed and is currently pending consideration before the Trial Court.

3. Counsel for the Applicant asserts the following grounds for seeking grant of regular bail:

3.1 The present FIR stems from a complaint lodged by Mr. Rohit Dhingra on 12th March, 2019. The allegations in the said complaint pertain to events that occurred in 2016, yet the FIR was only registered on 23rd September, 2020, reflecting an unexplained and inordinate delay of over four years. Furthermore, despite the investigation being underway since 2020, the Applicant was formally arrested only in 2024, while already in judicial custody at Tihar Jail, for an unrelated case.

3.2 The investigation is now complete, and a chargesheet has been filed. Given that there is no further need for custodial interrogation, the continued incarceration of the Applicant serves no legal purpose. The Trial Court has not yet taken cognizance of the chargesheet, nor have charges been framed against the Applicant, establishing that there are no compelling grounds for prolonged detention.

3.3 The Applicant has already been granted bail by the Supreme Court in

---

[13] "FSI"

other cases filed on the same set of allegations giving rise to similar offences as alleged herein - relating to failure to raise constructions, failure to deliver units and non-payment of the assured returns. Reliance in this regard, is placed on two orders of the Supreme Court, being:

(i) Order dated 19th July, 2023 passed in SLP (Crl.) No. 6399/2023 & connected matter, in relation to FIR No. 2636/2018 and FIR No. 502/2019, registered at P.S. Indirapuram, Ghaziabad; and

(ii) Order dated 06th April, 2023 passed in SLP (Crl.) 1948/2023, in relation to FIR No. 889/2019 registered at P.S. Indirapuram, Ghaziabad

3.4 Thus, in light of the above, the Applicant ought to be granted bail since the investigation in the case is complete *qua* him and chargesheet has also been filed. There is no requirement for the continued custody of the Applicant.

4. On the other hand, Mr. Amit Ahlawat, APP for the State strongly opposes the present bail application on the following grounds:

4.1 Investigation in the present case has revealed that it is a multi-victim case where large number of public persons and public money is involved. The magnitude of the offences against the Applicant is immense since it involves cheating at least 27 victims of their hard-earned money, totalling an amount of over INR 31 Crores, on false promises for delivering their booked units on time. This was done without disclosing to the victims that the accused company was not the Lessee of the land on which the developmental project was proposed to be built and without obtaining the necessary permissions from NOIDA. The Applicant has deliberately concealed this fact to collect funds from innocent victims and subsequently diverted or siphoned off the said money in a systematic and fraudulent manner.

4.2 Investigation has also revealed that the Applicant has unlawfully sold the same unit to multiple investors, clearly demonstrating his intention to cheat the investors/victims of their money without having to hand over possession of the units. He has also fraudulently taken out mortgages on 22 units/flats already allotted to the victims.

4.3 Further investigation in the case, against remaining directors, subsidiary companies of the accused company and the diversion and siphoning of funds collected by the victims, is ongoing. As such, there is strong apprehension that in case the Applicant is released on bail, he is likely to influence and/or threaten innocent victims or tamper with crucial evidence.

4.4 Presently there are 22 cases registered against the Applicant in Delhi and U.P. and therefore, in case the Applicant is released on bail, he may abscond. In this regard, during investigation it has been revealed that the Applicant no longer has any permanent residence in Delhi since he has already sold the house where he was earlier residing in 2019. This fact has also been confirmed by the Applicant's wife and son.

4.5 The previous bail applications of the Applicant in the present case have been rejected by the Trial Court.

5. The Court has considered the aforenoted contentions. The genesis of the present FIR lies in the complaint filed by Mr. Rohit Dhingra on 12th March, 2019, which pertains to alleged fraudulent activities dating back to 2016. There is substantial merit in the Applicant's argument that there exists no cogent explanation for the inordinate delay in the registration of the FIR, which was filed only in September 2020—more than four years after the

alleged incident.

6. Further, the Applicant has been in custody since 2019, yet he was formally arrested in relation to the present case only in 2024, more than four years after the registration of the FIR. This delayed arrest reinforces the inference that his continued custody is not essential for the purpose of investigation, as the prosecution had ample time to seek his custodial interrogation, yet refrained from doing so. His detention appears to be punitive rather than investigative. The Supreme Court has previously granted bail to the Applicant in other FIRs concerning similar allegations, recognizing that granting bail would allow him to adequately prepare his defence and participate in trial proceedings. This recognition by the Supreme Court further reinforces the principle that pre-trial detention should not be punitive in nature and should be imposed only when absolutely necessary.

7. The Court has also considered the contention of the prosecution that the Applicant poses a flight risk which justifies the refusal of his bail. In this regard, the prosecution has not placed any material on record to suggest that the Applicant has attempted to evade the process of law or has engaged in any conduct indicative of an intention to abscond. Thus, mere seriousness of allegations is not sufficient to deny bail, unless there is a real and tangible apprehension that the accused will tamper with evidence or evade trial.

8. In light of the foregoing, since the investigation is complete and the chargesheet has been filed, the Court finds no justification for the continued incarceration of the Applicant. Prolonged detention in such cases, where the evidence has already been collected, runs contrary to the fundamental principles of bail jurisprudence. Reliance in this regard is placed on the

judgments of the Supreme Court in ***Sanjay Chandra v. CBI***[14] and ***Satender Kumar Antil v. Central Bureau of Investigation***[15]

9. Therefore, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹1,00,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court, 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. The Applicant shall report to the concerned IO on the fourth Friday of every month, at 4:00 PM, and will not be kept waiting for more than an hour for this purpose.

10. In the event of there being any FIR/DD entry/complaint lodged

---

[14] (2012) 1 SCC 40
[15] (2022) 10 SCC 51

against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

11. 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 or be taken as an expression of opinion on the merits of the case. It is further clarified that the present order granting bail pertains only to FIR No. 138/2020 and shall not affect the Applicant's custody in relation to any other case.

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

SANJEEV NARULA, J

FEBRUARY 11, 2025/ab