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

\+ BAIL APPLN. 3864/2025

AZHAR .....Petitioner

Through: Mr.I.A. Alvi and Mr.Azeem, Advocates

versus

STATE NCT OF DELHI THROUGH SHO .....Respondent

Through: Mr.Sanjeev Sabharwal, APP for the State alongwith SI Parmendra Kumar, P.S.-Chandni Mahal

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

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

% 10.10.2025

<u>CRL.M.A. 30148/2025 (Exemption)</u>

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

<u>BAIL APPLN. 3864/2025</u>

1. Having remained under incarceration since 21.10.2024 (more than 10 months) in a criminal case arising out of FIR No. 155/2022 dated 23.03.2022 *inter alia* for the alleged offences punishable under Sections 420, 120B and 174A of IPC, registered at Police Station Chandni Mahal, the applicant seeks bail.

2. The case of the prosecution, as set out in the FIR, is that the complainant, Shivam Narang, lodged a written complaint at Police Station Chandni Mahal, Delhi, against City Union Bank Ltd., Mrs. Shumaila Naaz,

Mr. Azhar (applicant herein), and Mr. Imtiaz, alleging cheating and criminal conspiracy.

2.1 The complainant stated that his mother, Smt. Poonam Narang, had purchased a shop from Mrs. Shumaila Naaz, wife of Mr. Azhar, for a total consideration of ₹5,00,000/-. The property, located at Ground Floor, Shop No. 2838, House No. 2837–38/3038, Ward No. 8, Bazaar Sitaram, Delhi–110006, was duly registered in her name on 15.10.2018, after which possession was taken.

3. On 10.11.2021, officials from City Union Bank visited the shop and served a loan recovery notice, revealing that a loan of ₹35 lakh had been sanctioned in 2019 against the same property—already sold and registered in the complainant's mother's name in 2018. The officials informed that possession was being taken due to loan default by Mrs. Shumaila Naaz and Mr. Azhar.

4. Upon inquiry at the Bank's Laxmi Nagar Branch, the complainant was informed by Mr. Aman, a bank officer, that the said loan, now amounting to ₹40 lakh with interest, was granted to Shumaila Naaz and Azhar. It was also revealed that Mr. Imtiaz, Shumaila's father and a builder with a criminal background, regularly visited the bank concerning this loan. The complainant alleged that Imtiaz was the principal conspirator and that his family had received threats from him.

5. The complainant contended that since the property was lawfully registered in his mother's name in 2018, sanctioning a loan on the same property in 2019 demonstrated gross negligence and collusion between bank officials, Shumaila Naaz, Azhar, and Imtiaz, amounting to fraud and cheating.

6. Learned Counsel for the Applicant submits:

(a) The applicant is innocent and has been falsely implicated. The case is entirely documentary, and there is no evidence showing any wrongful gain or fraudulent intent on his part.

(b) The applicant has clean antecedents, is a permanent resident of Delhi with strong family and social ties, and there is no risk of absconding.

(c) Investigation is complete, the charge sheet has been filed, and all relevant documents i.e. including bank and property records are already seized by the prosecution.

(d) Co-accused Imtiaz Ahmed and Shumaila Naaz have been granted bail vide orders dated 01.10.2024 and 27.11.2024 respectively; therefore, the applicant seeks bail on the ground of parity.

(e) The applicant fully cooperated during investigation and complied with all conditions of his interim medical bail granted on 27.05.2025, after which he voluntarily surrendered upon recovery.

(f) The trial has not commenced; charges are yet to be framed, and the prosecution has cited 35 witnesses, with the FSL report still awaited. Given this delay, further detention serves no purpose.

(g) As per the charge sheet, ₹24,00,000/- was transferred to Imtiaz Ahmed and his family members i.e. Mumtaz (wife) and Mohd. Ali (son) for construction of the property, while ₹5,00,000/- was transferred to Shumaila, who handed it over to Imtiaz. It is further shown that one shop and four flats built on the property were sold by Imtiaz, who received all sale proceeds. The applicant received no monetary benefit.

(h) The applicant has already deposited a substantial amount with the bank and is willing to pay the remaining ₹6,43,606/- within 15 days of release or as directed by the Court.

(i) Applicant undertakes not to tamper with evidence, contact witnesses, or leave Delhi without prior permission of the Court.

7. Learned APP for the State opposes the bail, submitting that the applicant is the main conspirator who, along with his wife, executed sale deeds and mortgaged the property to obtain loans, thereby cheating multiple victims. He allegedly evaded investigation, surrendered only after being declared a proclaimed offender, and poses a risk of influencing witnesses. Given the gravity of the offence and his conduct, it is argued that the application deserves dismissal.

8. Having heard both sides and perused the record, I find some merit in the submissions made on behalf of the applicant. The detailed factual disputes are, however, matters of trial, however, in light thereof and for other reasons stated hereinafter, I am of the opinion that it is a case for bail at this stage.

9. It appears that the primary role in the alleged offence is attributed to Imtiaz Ahmed and Shumaila Naaz, both of whom have already been granted bail. On the ground of parity and in light of the circumstances noted above, the applicant deserves similar consideration.

10. Moreover, the applicant has been in custody since 21.10.2024 (over 10 months). The investigation is complete, and the charge sheet has been filed. The slow progress of the trial and the prolonged pre-trial detention justify the grant of bail, particularly since continued incarceration would serve no useful purpose and would violate the settled principle that “bail is the rule and jail the exception.”

11. The apprehension of tampering with evidence or influencing

witnesses appears unfounded. The material evidence is documentary and already in the custody of the Investigating Agency. The applicant has cooperated throughout and has strong community ties, eliminating any flight risk.

12. Considering that the primary purpose of bail is to secure the accused's presence during trial, and the applicant has clean antecedents and poses no risk of absconding, his further detention would amount to pre-trial punishment.

13. In view of the above and taking an overall perspective of the matter, this Court is of the opinion that the applicant deserves to be released on bail.

14. Accordingly, the applicant is directed to be released on bail upon furnishing a personal bond with one solvent surety of the like amount to the satisfaction of the Trial Court/Duty Judge concerned, subject to the usual conditions as may be imposed by the Court.

15. 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.

16. The bail application, along with pending application, (if any), stands disposed of.

ARUN MONGA, J

OCTOBER 10, 2025
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