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

+ **BAIL APPLN. 3887/2025**

ARUN TRIPATHI

.....Petitioner

Through: Mr.Bhavesh Kumar Sharma,
Advocate (VC)

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State alongwith SI Tejpal, P.S.-Okhla
Industrial Area

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+ **BAIL APPLN. 3888/2025**

ARUN TRIPATHI

.....Petitioner

Through: Mr.Bhavesh Kumar Sharma,
Advocate (VC)

versus

THE STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr.Sanjeev Sabharwal, APP for the
State alongwith SI Tejpal, P.S.-Okhla
Industrial Area

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

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10.10.2025

CRL.M.A. 30277/2025 (Exemption)

CRL.M.A. 30278/2025 (Exemption)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

BAIL APPLN. 3887/2025 & BAIL APPLN. 3888/2025



1. Applicant herein has filed bail applications BAIL APPLN 3887/2025 and 3888/2025, seeking bail in Criminal Appeal Nos. 328/2024 arising out of CC No.626039/2016 and 325/2024 arising out of CC No.626038/2016, respectively, both pending before the learned ASJ, Saket Court (Appellate Court).
2. *Vide* similar orders both dated 16.09.2025 passed in the two pending appeals, the learned Appellate Court dismissed the earlier bail applications, and the applicant was sent to judicial custody.
3. The aforementioned two bail applications are being disposed of by the instant order as similar facts and issues are involved.
4. Brief facts of the case as given by the applicant are as follows:-
 - 4.1 The Complainant/Respondent No. 2 filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 (NI Act), bearing CC No. 626039/2016, against the applicant in respect of Cheque no.0000235, dated 13.01.2025, for a sum of Rs 1,72,537/-.
 - 4.2 The Complainant/Respondent No.2 filed another complaint under Section 138 of the NI Act, bearing CC No. 626038/2016, against the applicant in respect of 3 Cheques no.021055, dated 02.02.2015, 021056, dated 06.02.2015, 021058, dated 13.02.2015 for a total of Rs.3,00,000/- against the applicant.
 - 4.3 In CC No.626039/2016, *vide* judgment dated 28.06.2024, the learned Metropolitan Magistrate, Karkardooma Courts, convicted the applicant under Section 138 of the NI Act. Subsequently, by order on sentence dated 05.09.2024, the learned JMIC, Saket Courts, sentenced the applicant to three months' simple imprisonment and directed payment of Rs.1,72,537/- with 9% simple interest per annum from the date of complaint till realization,



payable within 30 days. In default, the applicant was to undergo one additional month's simple imprisonment.

4.4 In CC No.626038/2016, *vide* judgement dated 31.08.2024, the learned JMIC, Saket Courts, convicted the applicant under Section 138 of the NI Act. Subsequently, by order on sentence dated 05.09.2024, the learned JMIC, Saket Courts, sentenced the applicant to six months' simple imprisonment and directed payment of fine of Rs.5,43,537/- to be paid as compensation within 60 days. In default, the applicant was to undergo six additional month's simple imprisonment.

4.5 The applicant preferred Criminal Appeal No. 328/2024 and Criminal Appeal No. 325/2024 before the learned ASJ, Saket Courts, challenging the said conviction and sentence. The appeals remains pending.

4.6 In CA No.325/2024 the Appellate Court, suspended the sentence subject to the applicant's deposit of Rs.1,20,000/- as part compensation *vide* an order dated 08.10.2024. In the other appeal, i.e., CA No.328/2024 the Appellate Court, *vide* an order dated 09.10.2024 suspended the sentence subject to the applicant's deposit of Rs.40,000/- as part compensation.

4.7 However, the applicant failed to deposit the amount and the Appellate Court, *vide* an order dated 11.03.2025, issued Non-Bailable Warrants (NBWs) and imposed an additional cost of ₹10,000/-

4.8 Thereafter, *vide* order dated 06.05.2025, noting that the NBW report indicated the applicant had absconded and left his last known address 5-6 years ago without intimation, the Court issued a Proclamation under Section 84 BNSS and issued fresh NBWs, along with a further cost of ₹10,000/-.

4.9 As the applicant again failed to appear, the Appellate Court, on 01.08.2025, issued process under Section 84 BNSS and declared him a



Proclaimed person.

4.10 The applicant was subsequently arrested on 11.09.2025 and produced before the Appellate Court. His bail application under Section 483 BNSS was dismissed *vide* an order dated 16.09.2025.

5. In this backdrop, I have heard learned counsel for the parties and examined the record.

6. Learned counsel for the applicant reiterated the grounds urged in both Bail Applications, submitting inter alia:

6.1 The applicant is innocent and his arrest pursuant to the order dated 01.08.2025 was merely procedural, not indicative of guilt.

6.2 His arrest under Section 84 BNSS entitles him to seek bail before the competent Court.

6.3 The appeals against the conviction and sentence are pending before the learned Appellate Court, which had already suspended the sentence on 09.10.2024 upon deposit of Rs.40,000/-, as well as 08.10.2024 upon deposit of Rs.1,20,000/- thereby recognizing the applicant's right to liberty pending appeal.

6.4 The applicant has complied with the Court's directions by depositing costs of ₹30,000/- imposed *vide* orders dated 11.03.2025 and 06.05.2025, as evidenced by Receipt No. 450417 and Receipt No. 450416.

6.5 It is further submitted that the NBWs remained unexecuted as per reports of the DCP (South-East) dated 05.05.2025 and 31.07.2025, confirming that the applicant no longer resided at his previous address (249, Second Floor, Sector-27, Faridabad). The landlord, Mr. Vinit Bhadana, corroborated this. The applicant had already furnished his new address (476, III Floor, Sector-37, Amar Nagar, Faridabad) before the Trial Court on



25.02.2022; hence, non-execution of process resulted from outdated records, not evasion.

6.6 The sentence in CC No. 626039/2016 imposed three months' simple imprisonment and compensation of Rs.1,72,537/- with 9% annual interest, and the sentence in CC No. 626038/2016 imposed six months' simple imprisonment and compensation of Rs.5,43,000/- has been partly undergone, as the applicant has been in judicial custody since 11.09.2025.

6.7 The pending appeals raise strong grounds and is likely to take time for disposal. Further detention would amount to frustrating both the appeals.

6.8 The applicant, aged 45, is a law-abiding citizen with clean antecedents, deep social roots, and no prior criminal history. He undertakes to comply with all conditions imposed by this Court.

7. I have considered the submissions and perused both the impugned orders dated 16.09.2025, the relevant portion thereof from one of the orders passed in CA No. 328/2024 reads as under:

"1. As per record, applicant/appellant was arrested as a proclaimed person on 11/09/2025 by police officials of PS Okhla Industrial Area. It is argued that applicant/appellant was not deliberately hiding to avoid to appear before the Court. It is mentioned in application that applicant/appellant used to appear through VC on the dates of hearing, which is patently a brazen attempt to create a false excuse for absence on date of hearing and for non-compliance of order of the Court.

2. As per record, after filing the appeal, appellant Arun Tripathi stopped appearing before the Court and did not comply with order dated 09/10/2024 subject to which he was granted bail. He did not even take steps for issuance of notice of appeal to respondent. Appellant did not appear before the Court despite issuance of NBWs and proclamation U/s. 84 BNSS.

3. On 01/08/2025, one proxy counsel had appeared on behalf of main counsel for appellant and stated that the counsel for appellant has no information of whereabouts of the appellant. It was submitted that appellant has not been contacting his counsel, whereas, appellant could not be contacted by the



counsel.

4. Previous pending cost of Rs.30,000/- is deposited on behalf of the applicant/appellant today against receipt No. 450417.

5. Considering the wilful conduct of applicant/ appellant of defiance of order of the Court, staying away from the Court on dates of hearing and making false submissions to secure bail, the Court cannot trust the applicant/appellant and does not find it fit case for grant of bail to applicant/accused. The bail application is, therefore, dismissed.

The application is disposed of accordingly.

Copy of this order be given dasti to Ld.

Counsel for applicant/appellant, as prayed for.”

8. At the outset, to be noted that it is evident from the record that the applicant not only failed to deposit the mandatory 20% of the compensation/fine as required under law, but also willfully absented himself from appellate proceedings, resulting in the issuance of coercive process, including proclamation under Section 84 BNSS.

9. In view of the above conduct, no grounds are made out to interfere with both the impugned orders or to grant bail at this stage.

10. However, confronted with above observations, learned counsel submits that the applicant shall now deposit 20% of the compensation/fine by 31.10.2025, i.e., the next date before the learned Appellate Court.

11. It appears that the applicant's non-compliance stemmed from genuine severe financial hardship, which prevented him from depositing the requisite amount.

12. In the premise, both bail applications are disposed of with liberty to the applicant to deposit the said 20% amount of compensation/fine by enlarging the time to deposit the requisite amount upto 31.10.2025. Upon such deposit and his personal appearance before the learned Appellate Court, all coercive proceedings initiated against applicant shall be kept in



abeyance, and the appeal shall proceed on merits in due course including considering the application of grant of bail by the Appellate Court during pendency of the appeal in accordance of law.

13. Accordingly, the both bail applications stand disposed of.

ARUN MONGA, J

OCTOBER 10, 2025/dy