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

\+ BAIL APPLN. 4388/2024 & CRL.M.(BAIL) 2016/2024

SUSHIL RAMESH KOLHE .....Petitioner

Through: Mr. Deepak Biswas, Ms. Ruchika Rathi and Mr. Siddarth S., Advocates.

versus

STATE (GOVT NCT OF DELHI) .....Respondent

Through: Mr. Hemant Mehla, APP.
SI Dhyanendra, P.S. BHD Nagar.
Mr. C.P. Nautiyal, Mr. Anand Prakash, Mr. Rameshwar Gaur and Mr. Sahil Sharma, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

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

% **31.10.2025**

1. The Applicant seeks pre-arrest bail under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023[1] (formerly Section 438 of the Code of Criminal Procedure, 1973[2]) in FIR No. 415/2023 registered under Sections 406/420/120B of the Indian Penal Code, 1860[3] at P.S. Baba Haridas Nagar.

2. The case of the prosecution against the Applicant, in brief, is as follows:

2.1. The complainant, Mr. Ramesh Suryawanshi was approached by Omprakash, an employee of AGM Digital Ltd., Nagpur, with an offer to invest at a monthly return of 3% for 36 months, with principal repayable at maturity.

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[1] "BNSS"
[2] "CrPC"

2.2. Relying on these assurances, he invested ₹5,00,000/- in AGM Digital Ltd., later visited the Nagpur office and met the Applicant, Sushil Kolhe, who described himself as CMD of the said company.

2.3. Further sums were invested, ₹10,00,000/- in AGM Digital and ₹3,10,000/- in another concern, "Salenearbuy", totalling ₹18,10,000/-, allegedly routed through the Applicant and Omprakash. Interest was paid for about five to six months and then stopped. Cheques of ₹15,00,000/- issued later were dishonoured. The complaint alleges being misled by false assurances and a fraudulent "investor return" scheme.

2.4. The status report adverts to other investor complaints against AGM Digital, suggests total exposure of ₹30-35 crores, and recites criminal antecedents of the Applicant.

2.5. The Applicant has joined investigation, furnished some documents (address of Omprakash, corporate registration details), but not bank statements or ledgers reflecting receipt/utilisation of the complainant's funds. He says monies were used for business (LED advertising) and denies any liability.

3. Counsel for the Applicant argues that the FIR is an attempt to convert a commercial dispute into crime; there is no material showing dishonest intent at the inception of the transaction or any entrustment, both of which are essential for Sections 420 and 406 IPC respectively. He has cooperated post-interim protection and remains willing to do so. He disputes the quantum of the alleged investment, stating without prejudice, that only about ₹3,00,000/- was credited to an account traceable to him, of which about ₹2,40,000/- is said to be outstanding. He submits that custodial interrogation

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[3] "IPC"

would serve no legitimate purpose when the record sought can be obtained by the Investigating Officer from banks and payment intermediaries.

4. Mr. Hemant Mehla, APP for the State, and Counsel for the Complainant, on the other hand, oppose the Application and submit that investigation has revealed a premeditated investment fraud and the Applicant's role is central to the inducement, receipt of funds, and subsequent issuance of dishonoured and allegedly forged instruments. The Applicant has criminal antecedents; the status report cites other investor complaints of a similar nature, suggesting that the present FIR is not an isolated episode but part of a recurring modus. The Applicant has not been cooperative. Despite repeated requisitions, the Applicant has not produced basic banking records. Given the undisclosed material, there exists a real risk of tampering with evidence and influencing the witnesses. On this footing, the State contends that arrest is warranted to preserve the integrity of the investigation and to ensure an effective recovery and reconstruction of the transaction chain of the invested amount.

5. The Court has considered the aforenoted contentions. On a *prima facie* consideration, this Court is not persuaded that custodial interrogation is warranted at this stage. The Applicant was granted interim protection and directed to join the investigation *vide* order dated 29th November, 2024, and has since joined and cooperated with the IO. As regards the alleged non-disclosure of bank particulars and related documents, such material can be obtained by the IO through requisitions or from third-party sources. In these circumstances, the non-production of documents does not, by itself, justify arrest. Whether the complainant's outlay was ₹18.10 lakh, as alleged, or whether only about ₹3 lakh ever reached the Applicant, and if so, how any

credited sums were applied, are questions of proof that turn on bank trails, third-party records, and testimony. They are not amenable to determination at the anticipatory-bail stage and must await evidence at trial. The apprehensions expressed by the State regarding possible tampering with evidence or influencing of witnesses can be adequately addressed by imposing appropriate conditions.

6. The Supreme Court has repeatedly emphasized that the provision of anticipatory bail, under Section 438 Cr.P.C., is rooted in Article 21 of the Constitution of India, which guarantees personal liberty. Section 438 aims at protecting the personal liberty of an individual, who, at the time of seeking anticipatory bail, has not been convicted of the alleged offence and is entitled to the presumption of innocence.[4]

7. Considering the totality of the circumstances, the Court finds it to be a fit case for the grant of pre-arrest bail. The application is, therefore, allowed. The Applicant, in the event of arrest, is directed to be released on bail on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

a. The Applicant shall join and cooperate with the investigation as and when directed by the IO;

b. The Applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;

c. The Applicant shall not contact the witnesses or tamper with the evidence in any manner;

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[4] Gurbaksh Singh Sibbia and Others v. State of Punjab, (1980) 2 SCC 565; Siddharam Satlingappa Mhetre v. State of Maharashtra and Others, (2011) 1 SCC 694.

d. The Applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

8. In the event of there being any FIR/DD entry/complaint lodged against the Applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

9. 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 and also not be taken as an expression of opinion on the merits of the case.

10. The application is allowed in the afore-mentioned terms.

11. Pending application(s), if any, stands disposed of.

SANJEEV NARULA, J

OCTOBER 31, 2025

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