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

+ **BAIL APPLN. 4730/2024**

DEEPAK ANANDApplicant
Through: Mr. Amulya Dhingra and
Mr. Rajiv Talwar, Advs.
versus
THE STATE NCT OF DELHIRespondent
Through: Mr. Aashneet Singh, APP
for the State with SI
Sanjeev, PS Kalkaji.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

19.03.2025

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1. By present application, the applicant seeks regular bail in FIR No. 254/2022 dated 01.03.2022, registered at Police Station Kalkaji, for offences under Sections 420/468/471/120B of the Indian Penal Code, 1860 (IPC). The chargesheet has been filed against the applicant for the offences under Sections 420/467/468/120-B of the IPC.
2. It is alleged that the applicant along with his wife namely – Mrs. Preeti Anand, were partners in M/s Harpreet Impex and on the basis of various forged documents, the applicant along with other accused persons took loan of Rs. 1.30 crores from Punjab National Bank, Kalkaji, on behalf of the complainant. The complainant became aware about the same on receiving a notice dated 08.01.2020 from the bank, stating that the loan amount taken from the bank had become NPA due to non-payment of instalments. The said amount is stated to have been transferred into the applicant account from M/s Harpreet Impex.

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3. The wife of the applicant was admitted on bail by order dated 05.06.2024, passed by the learned Trial Court. It was noted that the charge sheet as well as the supplementary charge sheet has already been filed and the investigation was no longer pending against the accused persons.
4. The learned Trial Court though noted that there is a genuine apprehension, given the previous conduct of the accused of her absconding and avoiding the process, granted bail by imposing appropriate conditions.
5. Undisputedly, a woman in terms of the proviso of Section 437 of the Code of Criminal Procedure, 1973 is entitled for special treatment during the consideration of her bail application, however, it cannot be denied that the role attributed to the applicant as well as his wife is same, that is, of receiving funds in their accounts.
6. The Hon'ble Apex Court, in the case of ***Sanjay Chandra v. CBI : (2012) 1 SCC 40***, emphasized that the purpose of pre-trial detention is not punitive and held as under:

*“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.

*23. Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that **any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct** whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.*

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27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution.

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*40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. **But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.***

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*43. There are seventeen accused persons. Statements of witnesses run to several hundred pages and the documents on which reliance is placed by the prosecution, are voluminous. **The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that the accused should be in jail for an indefinite period. No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet.***



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46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to allay the apprehension expressed by CBI.”

(emphasis supplied)

7. It is not the case of the prosecution that the applicant is required for any further investigation. In the present case, the applicant was arrested way back on 08.11.2023 and has spent substantial period of time in custody. Given the number of witnesses, speedy trial in the present case does not seem to be possible. The trial is likely going to take a considerable amount of time to conclude. The applicants cannot be made to spend the entire period of trial in custody especially when the trial is likely to take considerable time.

8. In view of the above, the applicant is directed to be released on bail in FIR No. 254/2022, on furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court on the following conditions:

- a. The applicant shall appear before the learned Trial Court on every date of hearing;
- b. The applicant shall join for further investigation, if any, as and when called by the Investigating Officer (IO) concerned;



- c. The applicant shall, upon his release, provide his mobile number to the IO concerned, which shall be kept in working condition at all times. The applicant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of bail;
- d. The applicant shall, upon his release, provide his address to the IO concerned and shall not change the same without informing the IO;
- e. The applicant shall not leave the country during the bail period and shall surrender his passport before the concerned Trial Court.

9. 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 way of seeking cancellation of bail.

10. The bail application is allowed in the aforementioned terms.

11. It is made clear that any observations made in the present order are only for the purpose of deciding the present bail application and should not influence the outcome of the trial.

AMIT MAHAJAN, J

MARCH 19, 2025

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