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

% ***Date of decision: 3rd March, 2025***

\+ **BAIL APPLN. 124/2025**

BHARAT BHUSHAN BANSAL
S/o Chaman Lal Jindia
R/oD-303, Rail Vihar, Sector-10,
Sonepat, Haryana. .....Petitioner

Through: Mr. Karan Suneja and Ms. Manvi Khurana, Advocates.

versus

STATE NCT OF DELHI
Through SHO,
Police Station Keshav Puram,
Delhi. .....Respondent

Through: Ms. Meenakshi Dahiya, Ld. APP for the State.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T ***(oral)***

1. Fifth Bail Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 *(hereinafter referred to as* "BNSS"*)* has been filed on behalf of the Petitioner/Applicant for grant of Bail in case FIR No.469/2023 under Section 406/420 of the Indian Penal Code, 1860 *(hereinafter referred to as* "IPC"*)* registered at Police Station Keshav Puram, Delhi.

2. The Applicant has submitted in the Bail Application that he was arrested on 05.10.2023 and since then he is in Judicial Custody. He has clean antecedents and is a respectable person and law abiding citizen. He

has not committed any offence and has been falsely implicated in this case. His Anticipatory Bail Application was dismissed by the Court of Learned ASJ *vide* Order dated 04.08.2023.

3. During the pendency of the Bail Application, Notice under Section 41A of the Code of Criminal Procedure, 1973 *(hereinafter referred to as* "Cr.P.C."*)* was sent by the I.O, which was duly complied on various occasions and the Applicant joined investigations.

4. Thereafter, the Regular Bail Application was filed, but the same was dismissed on 13.10.2023. The learned Sessions Judge also dismissed his Regular Bail Application on 02.11.2023. He thereafter, filed another Application for Bail which was dismissed by learned M.M. on 16.02.2024 and also was dismissed by learned ASJ on 01.03.2024. The Application for Bail, thereafter was filed before this Court under Section 439 of Cr.P.C. but was withdrawn on 22.07.2024.

5. The Bail is sought on the ground of inordinate delay. Reliance has been placed on *Arvind Kejriwal vs. CBI*, Criminal appeal No.3816/2024, *Manish Sisodia vs. ED* SLP Criminal 8781/2024 and *Paras Ram Vishnoi vs. The Director, CBI*, Criminal Appeal 693/2021, wherein the Apex Court has held that long period of incarnation is a ground for bail as no useful purpose would be served. When the trial shall take time and the delay has not been contributed in any manner by the accused.

6. While the Chargesheet got filed in December, 2023, but the Charges have not yet been framed and the accused is not responsible in any manner for the delay. Reliance has also been placed on *Mohd. Enamul Haque vs. Directorate of Enforcement*, SLP (Crl.) NO.11129/2024, wherein also it was

observed that where an Appellant is not responsible for the delay in completion of trial, he is entitled to benefit of Bail. Similar observations have been made in *Kalvakuntla Kavitha vs. Directorate of Enforcement*, 2024 INSC 632.

7. In the present case, the FIR was registered pursuant to directions given by the learned M.M under Section 156(3) of Cr.P.C. The Applicant was not named in the FIR but case was registered against the Society. Pertinently, the Complainant despite being aware of the name of the Applicant from the first instance, did not name him in his Complaint on which the FIR got registered. In fact, there were no specific averments made against the Applicant who was the President of Vasudhaya Kalyanam Urban Cooperative Thrift and Credit Society Ltd. from its commencement till 30.06.2022. All the transactions took place between the Complainant and the Society of which the Applicant was only the President. Furthermore, the transactions which became the basis of FIR are essentially Civil disputes emanating from the alleged breach of Contract between the Society and the Complainant which has been given criminal over tones just to cow down the Applicant.

8. It is further submitted that the NCT of Delhi *vide* Order dated 01.07.2022 under Section 37(1) of the CS, Act, 2003 has appointed Shri Lal Singh (Retired DANICS) as Administrator of the Society with immediate effect and the entire ex-managing Committee had handed over the entire control to the Administrator. Mr. Lal Singh resigned from the post and now some other person has been given the charge of the Society.

9. As per law, Cooperative Society is a body corporate and has its own

and independent legal entity and therefore, it is the legal liability of the Cooperative Society solely and wholly which is currently being run by the Administrator who is answerable for all the legal purposes, be it civil or criminal.

10. The alleged investments were made by the Complainant in the scheme of the Society and if there is any breach of the same by either party, it is a civil dispute. Reliance has been placed on *Dalip Kaur vs. Jagnar Singh* (2009) 14 SCC 696, *Sarabjit Kaur vs. State of Punjab* (2023) 5 SCC 360, *Mariam Fasihuddin vs. State* 2024 SCC OnLine SC 58, *Syed Yaseer Ibrahim vs. State of U.P*. 2022 SCC OnLine SC 271 and *Sri Kota Reddy Veerappareddy vs. The State of Telangana rep. By Public Prosecutor, High Court, Hyderabad & Another* Criminal Petition No.3276 of 2020.

11. It is further submitted that there is difference between power of arrest and need for arrest. The Applicant had joined investigations in compliance of Notice under Section 41A of Cr.P.C and there was no reason for his arrest. Furthermore, no reasons had been recorded in writing by the Investigating Agencies giving reason for his arrest as is necessary. Only one day Police Remand was given and the Applicant was thoroughly interrogated and nothing could be extracted from him.

12. Chargesheet has already been filed which reflects that the custody of the Applicant is no more required for the investigations and further incarceration would vitiate the fundamental right of the Applicant to life and liberty as enshrined under Article 21 of the Constitution of India.

13. It is further submitted that the Applicant had cooperated in the investigations, but the I.O was not willing to consider the documents shown

to him. Although he admitted that loan to Rakesh Gupta and Manju Gupta, was advanced by the Society, but they had been repaying the same in instalments to the Society. Admittedly, they have been repaying the loan taken by them and it cannot be said that there is any misappropriation of funds or cheating.

14. The various loans advanced by the Society to various members, is reflected in the Balance Sheet of the year 2013-24 which is part of the Chart. There may be negligence on the part of the Society in so much as no audit thereafter was conducted, but neither the Society nor the Applicant had any intention not to repay the amounts taken as FDRs from its members. There is no cheating or misappropriation of funds on the part of the Applicant.

15. It has been further explained that some of the loans which had been advanced by the Society to different persons, failed to return the Loan amounts and became defaulters. The Society wanted to initiate legal action against the defaulters and this was brought in the knowledge of the members of the Society, but there was no consent given and no action could be taken.

16. The Applicant has been made a scapegoat by the members of the Society with ulterior motive as they had knowledge that due to non-consent of the members, Society would be unable to initiate any action against the defaulters. The Complainant in collusion with the Police Official adopted and used criminal law as a tool. If there was any discrepancy or default, the Complainant could have approached Registrar, Co-operative Societies who is the Competent Authority to take care of the interest of the Member of the Society. The Criminal Court cannot be used to recover the money by getting the FIR registered.

17. Since the evidence is documentary in nature which has already been collected by the Investigating Agency, in no manner can the Applicant tamper with any of the evidence and he also undertakes no to do so. The presence of the Applicant is not required for any purpose.

18. The Investigating Agency had asserted that the Applicant did not cooperate or answered the questions as per his whims and caprices, but the right of the Applicant to silence is recognized under Article 20(3) of the Constitution of India, 1950 and he cannot be forced to speak; the cooperation as sought during the investigation cannot mean confession and the Investigating Agency cannot make out a case against the Applicant just because he chose to be silent. No adverse inference can be drawn against him.

19. The general rule is Bail and to deny thereof is an exception. The Applicant fulfils the Triple test as he is not a flight risk and he is not likely to tamper with the evidence and also undertakes not to influence approach any of the witnesses in any manner.

20. Hence, a Prayer is made that he may be granted Bail.

21. The **Status Report** has been submitted on behalf of the State, wherein it has been detailed that a Complaint was made by Ms. Sunita Gupta wherein she alleged that the Applicant/Bharat Bhushan Bansal is the President of Vasundhaya Kalyanama Urban Co-Operative Thrift Credit Society Ltd. He approached innocent persons to deposit their hard earned amount as fixed deposit and trapped them in their Society. Sunita Gupta deposited Rs.1,90,000/- and Rs.1100/- as RD in the Saving Account of the Society. Her husband Naresh Kumar Gupta deposited Rs.46,500/- in the

said account. Their son Akash Gupta deposited Rs.46,500/-. The accused persons assured them return of the money on maturity of the fixed deposit.

22. The Accused Society provided small amounts to the Complaint due to the which they believed the representations made by the Society. It was claimed that accused used to give false assurances to return their amount with interest. After the maturity date of the fixed deposit, when they approached the Applicant for return of the money, he made excuses on one pretext or the other. There were many other innocent persons who made their investments but the Applicant did not return the money and kept on making excuses on pretext or the other. The accused Society usurped the entire amount without any hesitation and no money has been returned.

23. It is further stated that many meetings were arranged between the Complainant and other investors and the accused Society, but every time they denied to pay the amount to them. After sometime, when the Complainants approached the accused Society again and again for return of their amount, they were threatened with dire consequences and the Society flatly refused to return the amounts.

24. It is further submitted that during the course of the investigations, the Receipts *vide* which the amounts were deposited by the Complainant, was collected. The Term Deposit was of two years and the date of maturity was 05.11.2018. The deposited receipts bear the signatures of Applicant Bharat Bhushan Bansal as President, and also of Treasurer, etc. The amounts so deposited by her, her husband and her son, have all been confirmed. Further investigations revealed that there were 29 persons who had been cheated in the similar manner by the Applicant.

25. It is further submitted that *Shri Lal Singh* had been appointed as the Administrator, but he resigned. He had mentioned in his Status Report that no staff was deployed by the Management of the Society and the physical charge of the records with list, had not been handed over to him by the Management of the Society despite best efforts. The Management shifted the Office of the Society from House No.2527/192, Tri Nagar to 278B/245, Meter House, Hansa Puri, Tri Nagar, Delhi without his knowledge.

26. Now, Shri Bajrang Lal (Retd. DANICS) has been appointed as an Administrator *vide* Order dated 22.11.2023. During the investigations, the account statements of the Society at PNB Bank, had been obtained and some cheques had been collected.

27. On 05.10.2023, the Applicant was interrogated and arrested. His Disclosure Statement was recorded in which he disclosed that he along with Raman Sharma Secretary, had engulfed major funds of the Society. His one day Police Remand was taken to recover the records of the Society.

28. Further, during the investigations Rakesh Gupta and Manju Gupta were interrogated, who revealed that they are the relative of the Applicant/ Bharat Bhushan Bansal. Ms. Manju Gupta revealed that she was the sister-in-law of the Applicant/Bharat Bhushan Bansal and had taken a loan of Rs.40 lakhs from the Society in the year 2015, but she also could not produce any documents of loan. Shri Rakesh Gupta produced cash receipts of Rs.20,000/- of various dates (total amount Rs.30,20,000/-) by which Rakesh Gupta and Manju Gupta both claimed to have return partial amount of loan in cash. However, these Receipts could not be verified as Administrator of the Society mentioned in his Report that he had no record

of the Society. Both sent Demand Draft of Rs.1,00,000/- to the registered Office of the Society, but was not received. They had asserted that they are ready to repay the remaining amount to the Society.

29. Further, during the course of investigations, Vibhu Bansal, Mani Bansal, Vaibhav Bansal were examined, who stated that they are the members of the Society and had availed some loans from time to time which was repaid to the Society, some through bank and some in cash but they also failed to produce any cash Receipts.

30. Smt. Vijay Laxmi Bansal stated that she was a member of the Society and had availed total loan of Rs.9,85,000/- on different occasions and had paid Rs.2,40,000/- to the Society. She also had a Fixed Deposit of Rs.6,85,000/- with the Society and was willing to pay the differential amount to the Society.

31. Likewise, Shri Radhey Shyam Bhatia, the Treasurer/Cashier of the Society was examined. He stated that he was working without any monetary benefit and salary and was a Senior Citizen suffering from various ailments. The Applicant Bharat Bhushan Bansal President of the Society used to come to his residence and get the necessary documents and blank cheques signed. He further stated that though he was appointed as the Secretary in the Society, but he had never signed any cheques and FDs.

32. The Status Report concluded that the investigations have revealed that the Applicant/Bharat Bhushan Bansal was the founder President. Numerous persons became member of the Society and used to deposit money in the form of Fixed as well as in the form of RDs. The Society had undertaken to return the F.D/RD, but the money was misappropriated by the Applicant as

President of the Society and the money was not repaid on maturity of FD/RD. There are 29 members who have so far approached the Investigating Agency.

33. It was concluded that Applicant had cheated the victims, members and misappropriated the funds. The Chargesheet had been filed in the Court. The investigations of the role of other persons is in progress and shall be submitted through Supplementary Chargesheet. In view of these facts and circumstances, the bail of the Applicant Bharat Bhushan Bansal is opposed.

34. **Arguments heard and record perused.**

35. The allegations against the Applicant are that he was the founding member of the Vasundhaya Kalyanama Urban Co-Operative Thrift Credit Society Ltd. and was the President of the Society. He had taken up a scheme of taking Deposits from various members as FD/RD on a promise of paying the amount along with interest on the maturity of FD/RD. It has further emerged that all the money that was taken from these investors had been further given on loan to various persons who according to the Applicant, defaulted in returning the loan and the Society was left with no option but to declare them as bad debts. It has been explained in the Application that the consent of all the members of the Managing Committee was required, who did not consent to initiate legal action against the defaulting persons.

36. Pertinently, what emerges is that the money taken from the investors with a promise to return with interest on maturity, had indeed been further siphoned off to various persons, some of whom are none other than the family relatives of the Applicant and other members of the Committee.

Conveniently, they did not return the money and were terms as defaulters and the amounts were written off as bad debts. It clearly indicates that there was a design to cheat the investors from whom the money was taken and thereafter, distributed to the kith and kin by the Applicant and other members of the Managing Committee.

37. The contention of learned Counsel on behalf of the Applicant that there was no intention to cheat and it was purely a civil dispute as it is a case of default of return of money, is clearly not tenable. Prima facie from the averments made, it seems to be a well thought of scheme of taking money from the people on the false pretext of returning it with interest, when in fact there was no such intention because the money was siphoned off to other people.

38. It is also pertinent to mention that in the Status Report it has been indicated that a loan of about Rs.80 lakhs was given to Rakesh Gupta and Manju Gupta, who are the relatives of the Applicant. Interestingly, some amount of loan is shown to have been returned through cash receipts, of which there is not record available.

39. It is a well thought scheme where numerous people have been cheated out of which 29 victims have approached the Investigating Officer. It is a kind of a financial offence, where on the promise of good returns, innocent people have been cheated of their hard earned money, which they had deposited in the year 2013-14 and they are being made to run to pillar and post, despite which they have got no respite. They are clear victims of misrepresentation and cheating committed by the Applicant.

40. The learned counsel on behalf of the Applicant had further contended

that it was the Society which had given loans and he was merely a President and cannot be held responsible for the acts of the Society which works collectively through its Managing Committee. Again, in the Status Report it has been reflected that the Applicant was the founder Member and was controlling the affairs. Statement of Shri Radhey Shyam Bhatia Treasurer/Cashier of the Society had been recorded who stated that the entire affairs were being managed by the Applicant who used to visit him and obtain his signatures on various documents and cheques. It is prima facie shown that the main control was with the Applicant.

41. It is further contended that the Administrator has been appointed and the Applicant has no control over the affairs of the Society. However, the Administrator came to be appointed in the year 2023 while the loan transactions are of the year 2013-14. Pertinently, it is indicated in the Status Report that the records of the Society have not been made available to the Administrator despite repeated requests. The complicity of the Applicant, therefore, in the commission of the offence, where 29 people have been cheated and the money so collected from them has been given away to the own kith and kin of the Applicant and other members, is clearly borne out from the investigations.

42. Learned counsel for the Applicant has also placed reliance on the judgment of *Pankaj Soni vs. State of NCT of Delhi* Bail APPL. No.3247/2024, wherein in the similar circumstances, bail has been granted on 24.10.2024 by the Coordinate Bench. This Order cannot be taken as a precedent, because each of the Bail Order are unique to the facts and the circumstances involved in that particular case.

43. The main factors to be considered are whether there are circumstances justifying grant of Bail to the Applicant. It is no doubt true that the Applicant is in Judicial Custody since 05.10.2023, but at this stage it cannot be said that there is inordinate delay in the trial. It is barely one year and the arguments on Charge have been addressed. Considering the totality of circumstances, no case for grant of bail is made out at this stage.

44. The Bail Application is accordingly rejected and stands disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 03, 2025
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