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

% ***Date of Decision: 28.10.2026***

\# **CNR No.DLHC011083202025**

\+ **BAIL APPLN. 83/2026**

YOGESH SHARMA .....Petitioner

Through: Mr. Sanjeev Kumar, Ms. Saivi Kumar and Mr. Sachin Kumar, Advocates.

versus

STATE GOVT OF NCT DELHI .....Respondent

Through: Ms. Priyanka Dalal, APP for State along with complainant in person.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

SACHIN DATTA, J. (*ORAL*)

1. The present petition has been filed by the petitioner seeking regular bail under Section 483 of the Bharatiya Nagarik Surksha Sanhita, 2023 ('BNSS') in FIR No. 142/2018, under Section(s) 409/420/120B of the Indian Penal Code, 1860 ('IPC'), registered at P.S. Economic Offences Wing ('EOW'), Delhi.

2. The Bail application (bearing Bail Matter No. 1931/2025) seeking regular bail or in the alternative, interim bail on medical grounds was dismissed by the learned Additional Sessions Judge-08 ('ASJ'), Tis Hazari Courts, Delhi *vide* order dated 12.12.2025. The order, with reference to the prayer for regular bail *inter alia* reads as under:

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5. The transaction which forms the subject matter of the present case was effected between the victims and the accused in the year 2013. The accused had successfully hoodwinked the victims for five years and the present FIR was caused to be registered by the victims after sustained agony stretching over five years. The accused had ample time to transfer the land or refund the money between 2013 and 2018 but they failed to do so. It has been seven years since 2018 and nothing was done by the accused to redress the victims. Thus, when the accused was not under detention even then he was not interested or inclined to provide relief to the victims.

6. The accused was first arrested on 11.01.2019 in the present case. When he moved his bail application seeking interim bail, the Hon'ble High Court of Delhi by order dated 27.11.2019 granted interim bail to the accused till 06.02.2020. This relief was granted only to bring succour to the victims because the accused had effected a settlement with victims. Despite the Hon'ble High Court of Delhi having been magnanimous with the accused considering the grief of victims the accused did not perform it's promise made to the victims. The bail application, in which order dated 27.11.2019 was made by the Hon'ble High Court of Delhi, was dismissed by the Hon'ble High Court by its order dated 03.05.2023 and the accused was directed to surrender on 09.05.2023. The accused failed to surrender and therefore, coercive process were issued to compel his attendance but to no avail. Thereafter, by the concerned competent court, the accused was declared PO. Paragraph nos. 7 and 10 of order dated 03.05.2023 of the Hon'ble High Court which contain the assessment of the conduct of the applicant-accused are reproduced for ready reference:-

> *"7. Though the order granting interim bail in this case had been passed in the year 2019 and despite giving several undertaking before this Court and having been given opportunities thereof, the applicant has failed to comply with the directions of this Court as well as settlement agreements, and the matter had been adjourned on one pretext or the other.*
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> .....
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> *10. Considering the overall facts and circumstances of the case, gravity of the offence, and the fact that present case is a multi-victim case where victims have been cheated of their hard-earned money and despite giving several undertakings before this Court and entering into mediation agreement, the applicant has failed to comply with the same, this Court is not inclined to grant regular bail to the applicant."*

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7. After the applicant/accused was declared PO, he was arrested on 24.09.2025 and thereafter he continues to be in judicial custody and it is from this judicial custody that present bail is sought from.

8. The accused/applicant had successfully delayed the due redressal to the victims. The applicant/accused had been in disobedience of the order of the Hon'ble High Court of Delhi. The applicant/accused had been abusing the process of law by advancing false propositions of settlement with the victims. This conduct of the applicant/accused does not warrant that he be admitted to bail. Hence, the relief of regular bail as sought by the present application, is declined and the present application so far as it concerns grant of regular bail, is **dismissed.**

3. With regards to the prayer for interim bail on medical grounds, the order dated 12.12.2025 observed as follows:

As to the relief of interim bail:

9. Interim bail is sought on the ground that the applicant/accused had suffered some neurological disorder due to which he is experiencing seizures, numbness and paralysis.

10. A report was called for from the jail superintendent in respect of the medical condition of accused/applicant Yogesh Kumar Sharma.

10.1. The jail reported that the accused reported to the jail dispensary on 14.10.2025 with complaint of right sided upper limb

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19:28:03

weakness. He was referred to DDU hospital for emergency management. At the DDU hospital, he was advised NCCT (non-contrast computer assisted tomography). In the said diagnostic test calcified lesion in the left frontal lobe with surrounding oedema was detected for which he was advised to be reviewed by the Neurologist at GB Pant hospital.

10.2. On 15.10.2025, applicant/accused was examined at GB Pant hospital and advised a review with 'MRI brain with contrast'.

10.3. The date at the GB Pant hospital for contrast MRI brain is scheduled for 04.01.2027.

10.4. The applicant/accused is on anti-seizure medication and after 14.10.2025, no episode of seizure or paralysis is recorded or complained of. It is reported that the general condition of the accused/applicant is stable and he is receiving all necessary medical support.

11. The present condition of the accused/applicant is informed to be stable. He is informed to be on the required medication. Hence, the present interim bail application is **dismissed.**

4. The relevant facts are as under:

(a) A company named Big Bull Infrastructure Ltd. which is in the business of real estate development advertised a real estate project in 2013 called 'Big Bull Aashiana' at Chandwaji, NH-8, Jaipur, Rajasthan. The complainant and other investors had purchased plots in the year 2013 and as per the pre-allotment letter, the possession was promised within 20 months. The petitioner and his brothers, Chetan Sharma and Satya Narayan Sharma, were directors of Big Bull Infrastructure Ltd.

(b) The prosecution case is that the company was never in the possession of the land, and obtained no permission for its development and did not refund its investors money. The petitioner was arrested on 11.01.2019.

(c) On 27.11.2019, this Court admitted the petitioner to interim bail in BAIL APPLN No. 1557/2019 (Annexure P4), till 10.02.2020,

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19:28:03

after he entered into a settlement with the complainants before the Delhi High Court Mediation and Conciliation Centre (DHCMCC).

5. By order dated 03.05.2023, in BAIL APPLN. NO. 1557/2019, this Court declined regular bail and vacated the interim relief. It was, *inter alia*, observed as under:

> 8. Coming to the merits of the case, this Court notes that the complainants had alleged that they had purchased a plot from Big Bull Infrastructure Limited in the year 2013 at project Big Bull Ashiana situated in Jaipur, and the complainants were assured of the possession of plot after 20 months. It is alleged that accused persons namely Satyanarayan Sharma, Yogesh Sharma and Chetan Sharma, all directors of M/s Big Bull Infrastructure Ltd., had executed MOU but had delayed the possession of said plot. It is further alleged that the complainants had later come to know that accused persons had not developed the said area as per MOU and had cheated many persons on the same pretext. The accused persons had also not returned the money of the victims/investors. During investigation, it was found that the accused persons were neither in possession of said land nor they had obtained any permission/licence from concerned government authorities for construction of alleged housing project. It was also revealed that the land showed to the complainants belonged to some other builder and the directors of Big Bull Infrastructure i.e. present applicant and co-accused had never applied in Jaipur Development Authority for development of housing society nor they had obtained any permission from any government agency. It is alleged that the accused persons had misrepresented to the victims that they intended to develop the housing society as no work had been done by accused company in order to develop the same.
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> 9. The allegations in the present case *prima facie* point out towards commission of economic offence by the accused persons by cheating multiple innocent investors. The present applicant is stated to be one of the active directors of the accused company and is one of the majority shareholders of the same. He is also the Authorized Signatory of the Bank Account of the accused company from where the funds of investors have been allegedly misappropriated. As per Status Report, the applicant is also

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19:28:03

involved in five other cases of similar nature.

10. Considering the overall facts and circumstances of the case, gravity of the offence, and the fact that present case is a multi-victim case where victims have been cheated of their hard-earned money and despite giving several undertakings before this Court and entering into mediation agreement, the applicant has failed to comply with the same, this Court is not inclined to grant regular bail to the applicant.

11. In view of foregoing discussion and keeping in mind the failure on part of applicant in complying either with the directions of this Court or with his own undertakings or with the mediation agreement for last three years, order granting interim bail to the applicant stands vacated.

12. The applicant is directed to surrender before concerned Trial Court 09.05.2023.

6. Despite the aforesaid direction, the petitioner did not surrender and he was declared a "proclaimed offender". Thereafter, on 03.11.2023, FIR No. 83/2023 under Section 174A IPC was registered against him at P.S EOW for being a "proclaimed person".

7. The petitioner was re-arrested only on 24.09.2025. In the meanwhile, the co-accused, Chetan Sharma, whose application for anticipatory bail, being BAIL APPLN. 3340/2023, had been dismissed by this Court vide order dated 16.10.2023, approached the Supreme Court by way of SLP (Crl) No. 10220/2024. *Vide* order dated 29.07.2024, he was granted ad-interim protection, thereafter, by order dated 15.10.2024; the interim protection was made absolute.

8. Importantly, the order dated 15.10.2024 records the statement made on behalf of the state that the said accused had joined the investigation and

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19:28:03

the submission of the complainants, as follows:

> 4. Ms. Shrishti, appearing in person submits that she has filed an application for intervention. She states that the other accused, who were granted bail, have jumped the bail and not available for trial.

9. Taking note of the apprehension, the Supreme Court imposed additional conditions including depositing of his passport, regular appearance before the Trial Court, and that upon three consecutive absences the interim protection granted to him may be cancelled by the Trial Court.

10. On 14.09.2026, this Court in BAIL APPLN. 82/2026 granted bail to the petitioner in FIR No. 83/2023 under Section 174 A IPC, noting that charges have been framed in that case on 01.08.2026. He remained in custody in the present FIR.

11. Learned counsel for the petitioner submits that the petitioner has been in custody for an aggregate period of almost two years and the trial is unlikely to conclude soon. He further submits that the petitioner is suffering from a neurological condition, requiring treatment. It is pointed out that the petitioner had deposited a sum of Rs. 22.8 lakhs with the Registrar General of this Court in February, 2022 towards refund and that the co-accused, Chetan Sharma has been granted anticipatory bail by the Supreme Court and that the petitioner is entitled to the same relief on parity.

12. Learned APP for the State as also the complainant, oppose the present petition. It is submitted that the petitioner is the main accused in the case, involving several investors. They further contend that the petitioner was released in 2019 on his promise to refund the investors/complainant, but he

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19:28:03

did not do so and he absconded after the interim bail was vacated and remained proclaimed offender for two years.

REASONING & CONCLUSION

13. No doubt, *"bail is the rule and jail is the exception"*. This Court is, however, bound to consider the nature and gravity of the accusation. The, *prima facie* case, whether the accused has absconded or is likely to abscond, and the danger of justice being thwarted by the accused. In this regard, reference may be made to the observations of the Supreme Court in the case of ***Prasanta Kumar Sarkar v. Ashis Chatterjee***, **(2010) 14 SCC 496,** as follows:

> ***"9.*** *We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:*
> *(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
> *(ii) nature and gravity of the accusation;*
> *(iii) severity of the punishment in the event of conviction;*
> *(iv) danger of the accused absconding or fleeing, if released on bail;*
> *(v) character, behaviour, means, position and standing of the accused;*
> *(vi) likelihood of the offence being repeated;*
> *(vii) reasonable apprehension of the witnesses being influenced; and*
> *(viii) danger, of course, of justice being thwarted by grant of bail."*

14. This Court considering the totality of circumstances finds that the present case is not the one which entitles the petitioner to grant of bail. It is

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19:28:03

noticed that the present case is not one where the accused is seeking liberty for the first time, the petitioner had been released by this Court in 2019, for a specific purpose i.e. to refund the investors in terms of the settlement he had himself entered into. Over the next three and a half years, he gave undertakings to this Court and did not honour them.

15. There are other aspects of the petitioner's conduct which are quite disturbing. The petitioner did not surrender despite the categorical directions contained in the order dated 03.05.2023 in terms of which he was required to surrender before the Trial Court on 09.05.2023. He was consequently declared a "proclaimed offender" and a separate FIR was registered against him, as mentioned aforesaid.

16. He was apprehended on 24.09.2025, after almost two and a half years later. As such, the present case is not a case of mere apprehension of flight. The petitioner has, in fact, blatantly evaded the process of this Court. The risk that he will not face trial, if he is released, is therefore real and demonstrated.

17. No doubt, the custody period of almost two years is not insignificant, however, the present spell of custody is a direct consequence of the petitioner's own failure to surrender in the May, 2023.

18. During the course of hearing, learned counsel for the petitioner, relies upon the judgment ***Arshad Neyaz Khan vs. State of Jharkhand and Anr.*** **2025 SCC OnLine SC 2058**, where Supreme Court held that the offences of criminal breach of trust and cheating cannot co-exist, in the same sets of facts as they are antithetical to each other.

19. It is noticed that the said decision was rendered in quashing proceedings arising out of an agreement for sale of property, wherein the

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19:28:03

Supreme Court, on the allegations in that case, quashed the proceedings upon finding that no offence was made out. The same, however, does not assist the petitioner, for (i) the proposition, at its highest, bears on which of the two offences is disclosed by the facts; it does not suggest that no offence is disclosed by the allegation that several investors were induced to pay for plots in a project on land which the company did not possess. Which offence is made out is a question for the Trial Court to decide at the stage of charge; and (ii) in a bail application, this Court is loath to undertake a detailed merit based examination of the charges, which is reserved for trial.

20. Even if the petitioner is tried only under Section 420 of the IPC, the outcome of the present application would be same. Further there are multiple grounds which warrant denial of bail, namely, breach of undertakings on the basis of which he was released and his subsequent abscondence. These operate independently of the provision under which he is tried.

21. Equally misconceived is the petitioner's plea for the parity with co-accused. The Supreme Court granted anticipatory bail to accused Chetan Sharma on the basis that he had joined the investigation. The facts and circumstances are quite unlike the present case.

22. As noticed, the order dated 15.10.2024, passed by the Supreme Court itself records the complainants' grievance that the other accused were granted bail and have jumped bail. Consequently, the Supreme Court specifically imposed additional conditions as set out hereinabove.

23. Importantly, during the course of hearing, it is contended by a complainant that the co-accused Chetan Sharma and Satya Narayan Sharma, who are on bail, have not been personally appearing before the Trial Court.

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This Court does not examine that grievance in the present application. It is for trial Court to take appropriate steps in this regard. The submission, however, underlines that the risk of the present accused absconding, is not a theoretical one.

24. As far as the prayer for interim bail on medical ground is concerned, it is noted that the medical status report dated 16.02.2026 of the senior medical officer, Central Jail No. 1, Tihar, shows that the petitioner's general condition is stable, he is receiving anti-seizure medication, his MRI Brain was conducted on 24.12.2025 and there has been no episodes of seizure reported in the recent past. Nothing has been placed on record to show that the treatment which the petitioner requires cannot be provided in custody.

25. In the circumstances, BAIL APPLN. 83/2026, is dismissed. However, the Jail Superintendent is directed to ensure that the petitioner continues to receive the medical treatment that has been advised for him including necessary follow ups at the hospital during treatment.

26. The petitioner shall be entitled to renew prayer for bail after the material prosecution witnesses have been examined or if the trial does not materially progress within six months from today for reasons not attributable to him.

27. Nothing stated in this order shall be construed as an expression of opinion on the merits of the case.

28. The present petition stands disposed of in the above terms. Pending application also stands disposed of.

SACHIN DATTA, J

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