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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of decision: 18.02.2025*

+ BAIL APPLN. 4375/2024

RUDRA KUMAR VERMA

.....Applicant

Through: Mr. Bhaskar Aditya, Advocate

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Rupali Bandhopadhyia, ASC
(Crl.) for the State with Mr. Abhijeet
Kumar and Mr. Anurag Arora,
Advocates

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CORAM:**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA****ORDER****MANMEET PRITAM SINGH ARORA, J (ORAL):**

1. Present petition has been filed under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS) seeking regular bail in FIR No. 161/2024 dated 19.03.2024 under Sections 408/420/468/471 IPC registered at PS Badarpur, Delhi.
2. The Applicant herein is in custody since 06.09.2024. The charge-sheet dated 24.10.2024 has been filed before the Trial Court. The prosecution states the supplementary charge-sheet will be filed before the Trial Court possibly on 19.03.2025.
3. As per the prosecution's case detailed in the status report dated 11.12.2024, Mr. Sanjay Kumar Gupta, Chief Financial Officer (CFO) of V5 Global Services Private Limited, lodged a complaint at Police Station Badarpur, Delhi, against the Applicant, alleging commission of offenses



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including criminal breach of trust, cheating, forgery, and misappropriation of funds, fabrication and submission of forged documents as well as unauthorized removal of valuable company data stored on Laptops and servers, resulting in monetary losses to the company of Rs. 70,32,389/-. It is stated that the Applicant, who was employed as the Manager of Compliance, was entrusted with responsibilities concerning human resources and labor law compliance, specifically statutory obligations such as remittance of the Labor Welfare Fund (LWF) and Professional Tax (PT) for the company, i.e., V5 Global Services Private Limited. It is stated that despite receiving the funds from the company into his personal bank account for making statutory payments, the Applicant failed to deposit the same with the competent authorities and instead generated forged receipts and falsified reports submitted to the company. In these facts, the subject FIR was registered.

4. It is stated that during the course of the investigation, the Applicant's bank account statements were obtained and scrutinized, which corroborated the allegations made in the complaint. The financial records reportedly indicate that the funds, which were meant for onward statutory tax payments, were diverted into other accounts for personal use.

5. It is stated that a notice under Section 41 of the Code of Criminal Procedure, 1973 (CrPC) was issued to the Applicant on 08.04.2024. The Applicant joined the investigation on 19.04.2024, during which he admitted that the funds deposited in his account by the company were utilized by him for personal expenses, including house construction, medical treatment of his sister, repayment of existing loans, and tax payments for his private business. It is stated that on 04.05.2024, the Applicant submitted an original sale deed of an immovable property and jewelry purchase bills, which were



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seized through a seizure memo. However, subsequent investigation revealed that the property in question was on loan from Indiabulls Housing Finance Ltd., and the whereabouts of the jewelry remained unverified.

6. It is stated that the Applicant subsequently absconded, evading multiple attempts of service of notice under Section 41 CrPC. Consequently, the Trial Court issued non-bailable warrants (NBWs) against the Applicant on 01.06.2024. Thereafter, the Applicant filed an application before the Trial Court seeking the cancellation of NBWs and the dropping of proceedings under Section 82 CrPC, which was dismissed vide order dated 06.09.2024.

7. It is stated that subsequently, Sub-Inspector (SI) Onkar moved an application before the Trial Court seeking permission to interrogate and arrest the Applicant. Upon obtaining the requisite permission, the Applicant was interrogated by Head Constable (HC) Vijay Singh, wherein he allegedly confessed to the offenses and expressed willingness to assist in the recovery of misappropriated funds. The Applicant was arrested at the Saket Court Complex and thereafter produced before the Trial Court, which granted a two-day police custody remand. Further interrogation led to the recording of the Applicant's disclosure statement.

8. It is stated that further investigation on 20.09.2024 led to recording of the statements of Ms. Sakshi (Manager, Finance, V5 Global Services Private Limited), and Ms. Rakhi Vaity (General Manager, V5 Global Services Private Limited), who joined the investigation at Police Station Badarpur. In their statements under Section 161 CrPC, they confirmed that they were responsible for vendor payments, statutory remittances, and monthly tax filings. They stated that the Applicant, who was employed as Manager of Compliance–Labour at First Meridian Business Services Ltd., Mohan



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Cooperative, Badarpur, New Delhi, from February 2022 to January 2024, was responsible for ensuring labor law compliance and statutory tax filings.

9. They further stated that due to technical restrictions preventing corporate accounts from directly accessing certain government portals, company funds were transferred to the Applicant's personal HDFC Bank account (A/C No. 501000526204140, IFSC: HDFC00002034) for onward remittance to statutory authorities. It was stated that the Applicant received advances, which he was expected to settle and return with receipts. However, due to his senior position as the compliance head, the receipts submitted by him were not subject to further verification within the company, thereby enabling the alleged misappropriation to remain undetected within the company.

10. Upon completion of the investigation, a charge-sheet dated 24.10.2024 was prepared and duly filed before the Trial Court.

Submission of Applicant.

11. Learned counsel for the Applicant states that Applicant was appointed as Manager-Compliance at M/s First Meridian Business Services Ltd. He states that the Applicant was assigned to look after HR and Labour Law. **He states that M/s V5 Global Services Private Limited, a sister concern of M/s First Meridian Business Services Ltd.**

12. He states that since M/s V5 Global Services Private Limited did not have any statutory recognized bank account, they proposed that money will be directly transferred to the personal account of the Applicant for the purpose of compliance of LWF and PT. He states that the M/s V5 Global Services Private Limited made this arrangement in an attempt to evade taxes. In support of this contention, he relies on the fact that admittedly the



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Applicant was not an employee of M/s V5 Global Services Private Limited and yet funds from the said entity, were deposited into his personal bank account. He states that the act of M/s V5 Global Services Private Limited depositing funds in his account is an attempt of a tax evasion.

13. He states initially the Applicant carried out the compliance of payment of LWF and PT but after sometime the CFO of the complainant and other officials of the company started accepting payments from the Applicant by way of cash; and thereafter the Applicant started making fake receipts pertaining to LWF and PT.

14. He states that Applicant attempted to resign from M/s First Meridian Business Services Ltd. in August, 2023; however, he was not permitted to resign and was compelled to continue with the aforesaid fraud.

15. He states that in December 2023 the senior management of M/s V5 Global Services Private Limited was clearly aware that the company had defaulted in making statutory tax payments, as this was recorded and reflected in the independent audit report for the year 2022. He states that the report highlighted various irregularities, which raised concerns that the company's tax evasion activities might come under scrutiny by the appropriate authorities.

16. He states that in anticipation of potential exposure, the management ordered an internal audit. He states that based on this internal audit, conducted in December 2023, the officials, including the complainant, coerced the Applicant into resigning so as to shift the blame for tax evasion onto an individual employee rather than the company's management. He states that he was left with no alternative, the Applicant tendered his resignation on 05.01.2024.



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17. He states that more than two months later, on 19.03.2024, the subject FIR was registered at PS Badarpur, Delhi, against the Applicant. He states that the delay in lodging the FIR itself demonstrates that the allegations are false, fabricated, and a deliberate manipulation of facts.

18. He states that Applicant is not a flight risk. He states that the evidence in this matter is electronic and documents based and the same are in possession of investigating agency and there is absolutely no chance to tamper with the evidence.

19. He states that charge-sheet dated 24.10.2024 has been filed before the Trial Court under Sections 420,468 and 471 of IPC. It is stated that since, the investigation is complete, no custodial interrogation is required and hence, no purpose will be fulfilled to keep the Accused in the custody during the trial.

20. He states that Applicant has no prior criminal antecedents and is in fact the sole bread earner for the family.

Submissions of Respondent-State.

21. Learned ASC appearing for the Respondent-State states that there are serious and grave allegations levelled by the complainant against the Applicant qua cheating, misappropriation of funds, fabrication and submission of forged documents and unauthorized removal of valuable company data stored on laptops and servers, resulting in monetary loss to the company of Rs. 70,32,389/-.

22. She states that amounts remitted from the account of V5 Global Services Private Ltd. has been duly reflected in the bank account of the Applicant however, the Applicant systematically failed to remit the correct amounts, instead providing forged receipts and false reports.



23. She states that Applicant is directly involved in the alleged offence moreover, the financial trail is yet to be fully determined and recovery of the proceeds are outstanding.

24. She states that in this case, the Applicant admits that he has indeed forged the receipts and misappropriated the amounts transferred to his account for making payments of statutory dues. She states that the plea of the Applicant that other officials of M/s V5 Global Services Private Limited were involved in this misappropriation is bald defence as no particulars of the alleged officials has been disclosed.

25. She states that the allegation of the Applicant that the company M/s V5 Global Services Private Limited connived with him appears to be disbelieving as the company has subsequently deposited the statutory payments with fines and penalty.

26. She states that Applicant poses a flight risk; to substantiate her submission he relies on the fact that Applicant joined investigation on 19th April 2024 and 4th May 2024, however he was thereafter absconding and notices were pasted and raids were conducted at his residence on 16.04.2024, 20.05.2024, 26.05.2024, 27.05.2024 and 30.05.2024 and subsequently, NBWs were issued against him on 01.06.2024. Further, NBWs were posted at his residence on 03.07.2024, 04.07.2024 and 21.07.2024 and was finally arrested on 06.09.2024 pursuant to order of the Trial Court dismissing the application of the Applicant for dropping of proceedings under Section 82 Cr.P.C.

Analysis and findings.

27. This Court has heard the submissions of the learned counsel for the parties and perused the record.



28. It is the plea of the Applicant that while he does not dispute the fact that he indeed received money in his personal bank account from of M/s V5 Global Services Private Ltd, however, he contends that amount was not received for the payment of the statutory taxes instead the transaction was done for the purpose of tax evasion with the connivance of the top management of the company. The veracity and admissibility of the said defence of the Applicant will be tested during trial.

29. It is a trite law that bail cannot be withheld as a punishment. The object of the bail is neither punitive nor preventative. The deprivation of personal liberty without a proper trial is in itself a punishment. In this regard it would be apposite to refer to the Judgement of Supreme Court in the case of **Sanjay Chandra v. Central Bureau of Investigation**¹ wherein the Court opined that imprisonment before conviction has a substantial punitive content and it would be improper on the part of the Court to refuse bail for the purpose of giving him a taste of imprisonment as a lesson. The relevant extract of the said Judgement reads as under :-

“20. The appellants are facing trial in respect of the offences under Sections 120-B, 420, 468, 471 and 109 of the Penal Code, 1860 and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. Bail has been refused first by the Special Judge, CBI, New Delhi and subsequently, by the High Court. Both the courts have listed the factors, which they think, are relevant for refusing the bail applications filed by the applicants as seriousness of the charge; the nature of the evidence in support of the charge; the likely sentence to be imposed upon conviction; the possibility of interference with the witnesses; the objection of the prosecuting authorities and the possibility of absconding from justice.

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**

¹ (2012) 1 SCC 40



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.**

(Emphasis Supplied)

30. A Co-ordinate Bench of this Court in the Judgement of **Ashok Sagar v. State (NCT of Delhi)**² summarized the jurisprudence with regard to the principles governing the exercise of judicial discretion while adjudicating an application seeking grant of bail. The relevant extract of the said Judgement reads as under:-

35. Authorities on bail, and the jurisprudence relating thereto, are in overabundance, and it is hardly necessary to multiply references thereto. The principles governing exercise of judicial discretion in such cases, appear,

² 2018 SCC OnLine Del 9548



however, to be well-settled. The following principles may immediately be discerned, from the aforementioned authorities:

- (i) Incarceration, during trial, is not punitive, but to secure the presence of the accused. The approach of the court, in examining applications for bail, which seek release of the accused during trial, has, therefore, necessarily to centre around the issue of whether continued incarceration of the accused is necessary and imperative, towards securing the end of obtaining his presence when required. Incarceration during trial, therefore, neither chastises nor cures.
- (ii) While examining the issue, courts are not to presume that the accused would flee justice, were he to be released, and search for evidence indicating to the contrary. Logistically, every accused, who is released during trial, has the potentiality of fleeing. Were this potentiality to be allowed to influence the mind of the court, no accused would be entitled to bail.
- (iii) While examining applications for bail, the court has to be duly sensitized to the mandate of Article 21 of the Constitution of India, which guarantees freedom to every citizen of India save and except by procedure prescribed by law. Curtailment of personal liberty during trial, has, therefore, to be limited to those cases in which it is absolutely essential, and in which, in the absence of such curtailment, the process of trial is likely to be hampered by the accused, whether by vanishing or by unduly influencing the trial process, by intimidating the witnesses, or otherwise. If no such apprehension can legitimately be expressed, there can be no reasonable ground to keep the accused incarcerated, as incarceration would then assume a punitive avatar.
- (iv) Given this legal position, the nature of the offence committed necessarily has a limited role to play, while examining the merits of an application for bail. This is for a simple reason that the application being examined by the court is not for suspension of sentence, but for release during trial. If the court were to allow itself to be unduly influenced by the nature of the charges against the accused, and the seriousness of the crime alleged to have been committed by him, it would result in obliterating the distinction between grant of bail and suspension of sentence. Inasmuch as the applicant, in a bail application, has yet to be found guilty of the offence with which he is charged, the significance of the nature of the offence stand substantially reduced, while examining the application for bail. Courts have to be alive to the legal position - underscored in the very first



paragraph of Dataram Singh (supra) - that every accused is presumed to be innocent until proved guilty.

- (v) Where, however, the material against the accused is so insubstantial that the court feels that his conviction, in the ultimate eventuate, appears remote, the court can legitimately arrive at a conclusion that, as the accused is highly unlikely to ultimately suffer conviction, his incarceration during trial, would be unjustified.
- (vi) Having said that, the decisions cited hereinabove reveal that the Supreme Court has, in certain cases, treated the seriousness of the offence alleged against the accused seeking bail, to be a relevant consideration while examining the merit of his application. While it may be true that, in extremely gross cases, the advisability of allowing the accused to roam at large, during the course of his trial, may be questionable, the court has, nevertheless, to be alive to the fact that, at that stage, the charge against the accused is still in the realm of an accusation, and no more. It would be entirely impermissible for the court, at the stage of deciding the bail application of the accused, to subject him to a premature trial, far less to return any finding, even tentative, regarding the justifiability of the charge against him.
- (vii) The Court cannot, however, while adjudicating a bail application, adopt an entirely accused-centric approach, unmindful of the prevailing public and societal interests hanging in the balance. The right of the accused to liberty, prior to his being found guilty of the charge against him has to be weighed against the public interest involved, in ensuring that the trial proceeds fairly and unhindered. The propensity and potentiality of the accused, were he to be enlarged on bail during trial, to unduly affect the trial process has, therefore, to be necessarily factored in, while deciding the application of the accused for bail. This, in turn, would involve examination of various aspects, such as the antecedents of the accused, any previous incidents (which would involve other criminal cases in which the accused might have been involved) which could indicate that the accused might, if let loose, tamper with the evidence, and the roots of the accused in society. In evaluating this aspect of the matter, the court has necessarily to adopt a holistic approach, and it would be impossible to formulate any guidelines in this regard.”

(Emphasis supplied)

31. The prosecution has opposed bail principally on the grounds that the financial trail as regards utilization of the misappropriated funds is still



under investigation and that funds have not been recovered from the Applicant. However, it is a settled legal principle that criminal proceedings cannot be converted into recovery proceedings. Supreme Court in the case of **Dilip Singh v. State of M.P**³ has opined that grant of bail cannot be denied on the account of non-recovery of the proceeds. The relevant extract of the said Judgement reads as under:-

“4. It is well settled by a plethora of decisions of this Court that **criminal proceedings are not for realisation of disputed dues**. It is open to a court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses; reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character, behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.”

32. In light of the aforementioned judicial precedents and considering that the investigation in this case has been completed, the charge-sheet has been filed, keeping the applicant in custody for almost six (6) months and his further incarceration as an under trial serves no further purpose. Since all the evidence is electronic and document-based and is already in the possession of the investigating agency, the likelihood of the applicant tampering with the evidence if released on bail is remote and bleak. Regarding the respondent's apprehension that the applicant may be a flight risk, this

³ (2021) 2 SCC 779



concern can be adequately addressed by imposing stringent conditions and, therefore, could not be the sole ground for denying bail. As for the recovery of proceeds, it is noted that the complainant company has not filed any civil suit seeking recovery of the amount of Rs. 70 lakhs and non-recovery during criminal proceedings cannot be a ground for rejecting bail. Therefore, this Court deems it appropriate to grant bail to the Applicant.

33. Consequently, the applicant is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Applicant will not leave the country without prior permission of the Court.
- ii. Applicant shall provide his permanent address to the Trial Court. The Applicant shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
- iii. Applicant shall appear before the Trial Court as and when the matter is taken up for hearing.
- iv. Applicant shall join investigation as and when called by the IO concerned.
- v. Applicant shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
- vi. Applicant will mark presence before the concerned I.O. every 1st and 3rd Monday at 10:30 AM. and he will not be kept waiting for more than a hour.



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vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

34. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

35. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

36. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 18, 2025/AKT/hp