



2025:DHC:3505



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IN THE HIGH COURT OF DELHI AT NEW DELHI

*Reserved on: 17th April, 2025
Pronounced on: 9th May, 2025*

+ BAIL APPLN. 3395/2024 & CRL.M.(BAIL) 1577/2024

ARUN SACHDEVA

.....Petitioner

Through: Mr. Pashupati Nath Razdan, Mr.
Ashutosh Kumar, Mr. K.P.Jayaram,
Mr. Anurag Singh and Mr.
Yaduvendra Rao, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State.
Mr. Amit Chadha, Senior Advocate
with Mr. Arvind Vashishth, Mr.
Gaurav, Mr. Saarthak Sethi and Mr.
Harjas Singh, Advocates for
complainant.

+ BAIL APPLN. 71/2025

SANGEETA SACHDEVA

.....Petitioner

Through: Mr. Pashupati Nath Razdan, Mr.
Ashutosh Kumar, Mr. K.P. Jayaram,
Mr. Anurag Singh and Mr. Yaduvendra
Rao, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State.
Mr. Amit Chadha, Senior Advocate



with Mr. Arvind Vashishth, Mr. Gaurav, Mr. Saarthak Sethi and Mr. Harjas Singh, Advocates for complainant. Mr. Sumit Sharma, Adv. for complainant (through VC).

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

JUDGMENT

AMIT SHARMA, J.

1. The present applications under Section 439 of the Code of Criminal Procedure, 1973, (for short, 'CrPC') have been filed on behalf of the applicants seeking regular bail in case arising out of the FIR No. 489/2023, under Sections 420/467/468/471/475/406/120B/34/201/384 of the IPC, registered at Police Station, Mohan Garden. These applications are being disposed of by the present common judgment as they arise out of the same FIR. The applicant in BAIL APPLN. 3395/2024, *i.e.*, Arun Sachdeva, shall be hereinafter referred to as applicant No. 1 and applicant in BAIL APPLN. 71/2025, *i.e.*, Sangeeta Sachdeva, shall be hereinafter referred to as applicant No. 2.

2. The case of the prosecution against the present applicants, as per the status report dated 25.10.2024 authored by SHO, PS Mohan Garden, is as follows: -



- i) The present FIR was registered on behalf of the complainant Mahavir Prasad (Complainant No.1) and six (6) other persons, who are the family members of Mahavir Prasad, with respect to cheating and fraud of Rs.2,55,61,430/. It is the case of the complainants that the accused persons (the other two accused persons being the brother of the applicant No. 1, Sanjay Sachdeva, and his wife, Sonali Sachdeva) were known to them being family friends since last many years and the accused persons including the present applicants were in dire need of money and therefore, asked the complainants to lend money to them during time period between 02.04.2019 to 22.02.2021. It is alleged that a sum of Rs.96,50,000/- was paid to the accused persons, including the present applicants, by the complainants and when the complainants asked about the returning the payment from them, they expressed their inability to do so and offered to sell 7 properties to the complainants after paying a consideration amount over and above the loan amount.
- ii) It is alleged that the complainants then paid an amount of Rs.97,67,020/- to the accused persons, including the present applicants, for purchasing the said 7 properties. It is further alleged that around 01.08.2022, the accused persons, including the present applicants, showed all the original title documents of all the 7 properties to the complainants and the latter agreed to purchase the aforesaid properties and asked the applicants to execute the sale deed in their favour, as the complainants had already paid a hefty amount to the accused persons. It is alleged that however the accused persons made an excuse that they



need to find other properties to shift their goods and articles and considering their prior relations, the complainants agreed to grant some time to them. As per the complainants, an online appointment was taken on 04.08.2022 for presentation of “Agreement To Sell Without Possession” and the same was fixed for 18.08.2022. On the said date, it was alleged that the accused persons, including the present applicants, before appearing at the office of the Sub-Registrar, Janak Puri, threatened the complainants that they require more money otherwise, they will not execute the agreement. It is alleged that, under these circumstances, since the complainants had already paid huge amount, they agreed to pay more amount after the registration of the said agreement. The complainants paid a consideration amount of Rs. 27,72,860/- for each property in lieu of the execution of the aforesaid agreement for the 7 properties. It is alleged that, thereafter, between 23.08.2022 to 06.04.2023, the complainants also paid an amount of Rs.61,51,410/- through bank account transactions to the accused persons, including the present applicants, on their demand that they would not execute the deed in favour of the complainants, unless the latter pay further amount. It is thus, stated that the complainants had paid an amount of Rs.2,55,61,430/- to the accused persons, including the present applicants through their bank accounts. As per the complainants, applicant No. 1 has received an amount of Rs.84,77,140/- in his bank account and applicant No. 2 has received an amount of Rs.68,31,430/- in her bank account.



iii) It is the case of the complainants that out of the 7 properties, 4 properties were already mortgaged with HDB Finance and 1 property was mortgaged with Sri Ram Finance Limited and rest of the 2 properties were mortgaged with Bhushan Batra and Meenu Chopra for an amount of Rs.30,00,000/- and Rs.41,50,000/- respectively. It is further alleged that complainants filed an application/objection before the concerned Sub-Registrar *vide* application dated 13.03.2023, not to execute further title deeds with respect to the aforesaid properties. On the basis of the aforesaid complaint, FIR was registered in the present case and the investigation in the same was conducted.

3. During the course of the investigation, it was revealed that out of 7 properties, 4 properties mortgaged with HDB Finance Services Limited had been cleared by two individuals, Suraj Vadhawan and Rajesh Vadhawan, who, thereafter, executed their agreement to sell of 3 properties. It is stated that the aforesaid persons have also filed a complaint dated 09.06.2023 at P.S. Hari Nagar against the persons mentioned therein including the present applicants and the same is also pending investigation. It is further stated that these properties were transferred in the name of Naveen Kumar by forging the NOC of three complainants, namely, Mahavir Prasad, Rekha and Rhythm Gautam. It is alleged that another property was transferred in the name of the sister of the applicant no. 1, namely, Meenu Chopra, wife of Sumit Chopra. It is alleged that during further enquiry, on 04.07.2023, the accused persons, including the present applicants, had submitted a photocopy of the 7 properties and e-stamp certificates of those properties when verified from



Stock Holding Corporation of India, were found to be fake and fabricated. Similarly, photocopy of properties papers obtained/submitted from Naveen Kumar, Sumit Chopra and Bhushan Batra were also verified from Stock Holding Corporation of India and were found to be forged and fabricated. It was further revealed that another FIR No. 425/2023, under Sections 420/34 of the IPC has been registered against the accused persons including the present applicants by one Ruchi Gupta at P.S. Hari Nagar, which is pending investigation.

4. It is the case of the prosecution that original volume books No. 9239 and 9240, wherein the original No-objection Certificates were pasted, had been obtained from the Sub-Registrar, Janak Puri and sent for FSL. The said FSL report has been placed on record by the complainants on applications which were listed before this Court on 29.04.2025, after the judgments, had been reserved in these applications. As per the said FSL report dated 16.04.2025, the specimen signatures of Mahavir Prasad, Complainant No.1, and Rekha, Complainant No.2, on the questioned original NOCs were found not to be of the same persons (respective complainants), whose signatures were sent for examination and regarding the specimen signatures of Rhythm Gautam, Complainant No.6, the FSL report has been sent with remarks that, "Further attempt can be made if admitted genuine signatures of similar model & design as appearing in the questioned signatures are procured & sent for examination." On completion of investigation, chargesheet was filed and the matter is presently at the stage of consideration of point of charge before the learned Trial Court.



5. Learned counsel for the applicants submitted that the present FIR has been registered against the present applicants who are husband and wife and two other persons, namely, Sanjay Sachdeva and Saloni Sachdeva, who are brother and sister-in-law of the applicant No. 1 respectively. It is submitted that the applicant no. 1 and his brother used to run their business in the name and style of 'Subhash Footwear' and over a period of time, they had brought 7 immovable properties in Tihar village. It is submitted that complainant No. 4, Sushil Kumar (Brother of Mahavir Prasad), being a Government Servant working at Indira Gandhi Hospital, Dwarka, was known to the applicant No. 1 and his brother as a friend and other six (6) complainants are relatives of complainant No. 4 and reside at the same address. It is the case of the present applicants that the applicant No. 1 and his brother, Sanjay Sachdeva, had availed credit facilities from HDB Finance and Sri Ram Finance Limited for running their business and had mortgaged 5 out of the 7 properties owned by them. It is submitted that complainant No. 4 also started lending money at the rate of 2% per month to the brothers by transferring funds from the bank account of all the 7 complainants and the money used to be returned by the accused persons, including the present applicants, from the cash generated from their business during the period 2018-2022.

6. In March, 2022, it is submitted, that the applicants after COVID-19 lockdown suffered major losses in the business and they were forced to borrow more money from moneylenders as well as from their own family friends and relatives. It is pointed out that on 03.06.2021, the HDB loan



account was declared an NPA (Non-performing Asset) and HDB Finance Services Limited (HDB FSL) issued a notice under Section 13(2) of the SARFAESI Act, 2002 and on 06.04.2022, the accused persons were called upon to clear the outstanding amount of Rs.40,23,968/-. It is submitted that on 04.03.2022, the said financial company (HDB FSL) started its recovery process and issued symbolic possession notice under Section 13(4) of the SARFAESI Act to the said business entity of the applicant No. 1 and his brother. The said notice was placed on the mortgaged property and was also published in the local newspaper.

7. It is further submitted that on 22.08.2022, being aware of the aforesaid mortgage(s), complainant No. 4 induced the present applicants to execute 7 duly registered "Agreement To Sell Without Possession" in favour of 7 complainants with respect to seven immovable properties. It is pointed out that as per the clause 4 of the said agreement to sell, the sale was valid till 30.06.2023. It is the case of the applicants that the complainants were well aware of the factum of mortgage and for this reason, they did not take possession of the property despite allegedly paying 99% of the consideration amount. It is pointed out that despite allegedly filing their objection before the Sub-Registrar on 13.03.2023, the complainants kept on transferring money into the accounts of the accused persons, including the present applicants, without calling upon them to execute the registered sale deed in their favour. It is submitted that the applicants, with the help of the friends and relatives cleared the outstanding amount of HDB FSL and title deeds of the said 4 mortgaged properties were released and the applicants were in process of



selling few others of their properties in order to settle the outstanding dues of the complainants as well as their own friends and relatives.

8. It is the case of the applicants that on 08.06.2023, when the complaint was filed by the complainants, they never called upon to execute the sale deed in their favour and instead complainant No. 4 started extorting from them unjustified sums of money and started putting exorbitant interest rates and other illegal charges and filed a complaint at Police Station, Mohan Garden. It is pointed out that on the date of filing of the complaint, *i.e.*, on 08.06.2023, title of the all 7 properties was admittedly in the name of the applicants but the complainants never called upon them to execute the sale deed before the expiry of the agreement to sell, *i.e.*, 30.06.2023.

9. It is the case of the applicants that after the expiry of the said period of the 7 agreements to sell, the present applicants executed 3 registered sale deed with respect to the 3 properties in favour of their friend Naveen Kumar on 03.07.2023. It is the case of the applicants that at the time of registration of the said sale deeds, they never filed any NOC(s) before the Sub-Registrar. It is pointed out that there is no mention of such NOCs in any of the sale deed and it was not even sought by the Sub-Registrar, Janak Puri, New Delhi. It is the case of the applicants that the alleged NOCs have been illegally inserted between the registered sale deeds to falsely implicate them.

10. Learned counsel appearing on behalf of the applicants submitted that without FIR being lodged and only on the basis of the complaint filed by the



complainants, notices were sent to the accused persons, including the present applicants as well as their friends, relatives, and also, to banks and other institutions from 04.07.2023 to 18.12.2023 to join preliminary enquiry. It is further submitted that the applicants had cooperated with the Investigating Officer and had joined the preliminary enquiry for 6 months. It is submitted that the said enquiry could not have taken place without registration of FIR.

11. It is further submitted that the FIR was lodged on 19.12.2023 and without serving any notice under Section 41A of the CrPC, the present applicants were arrested on 23.12.2023 from their residence. It is further submitted that as per the arrest memos, no grounds of arrest have been shown or supplied to the applicants. It is further submitted that co-accused, Sanjay Sachdeva, brother of applicant No.1, has been granted bail by learned Coordinate Bench of this Court in BAIL APPLN. 2029/2024 *vide* order dated 06.08.2024. It is finally submitted that the applicants are in custody since 23.12.2023 and have undergone incarceration for more than 1 year 4 months. Chargesheet in the present FIR has been filed which runs into more than 1500 pages and total 37 witnesses have been cited by the prosecution.

12. Reliance has also been placed on following judgments by learned counsel for the applicants in support of the present applications: -

- i) Vihaan Kumar v. State of Haryana and Another¹;**
- ii) Gagan v. State (NCT of Delhi)²;**

¹ 2025 SCC OnLine SC 269



- iii) **Manish Sisodia v. Directorate of Enforcement**³;
- iv) **Lalita Kumari v. Government of Uttar Pradesh and Others**⁴;
- v) **State of Gujarat (in all the appeals) v. Shyamlal Mohanlal Choksi and Anr.**⁵;
- vi) **V.S. Kuttan Pillai v. Ramakrishnan and Anr.**⁶;
- vii) **Aadit Palicha v. State Govt. of NCT Delhi**⁷;

13. *Per contra*, learned APP for the State, assisted by learned Senior Counsel appearing on behalf of the complainants, has submitted that the complainants have already paid 99% of the consideration amount and balance 1% was to be paid before 30.06.2023. It is submitted that on 11.03.2023, balance consideration of Rs. 1,89,980/- in respect of all properties was paid to the accused persons including the present applicants in addition to Rs. 96,50,000/- originally paid to them as well as the additional amount of Rs. 99,60,020/- paid between January 2022 and August 2022. It is alleged that on 12.03.2023, the day after the entire payment was made, the complainant visited the subject properties to seek possession and found a sticker of HDB Finance (HDB Financial Services Limited) affixed on the property, and on next day, they raised/made an objection/complaint on 13.03.2023 before the Sub-Registrar, Janak Puri, requesting that in case of receipt of any proposal regarding the sale and purchase of the subject

² 2025 SCC OnLine 1299

³ 2024 INSC 595

⁴ (2023) 9 SCC 695

⁵ 1964 SCC OnLine SC 41

⁶ (1980) 1 SCC 264

⁷ Order dated 11.10.2021 passed by a Coordinate Bench of this Court in CRL.M.C. 2464/2021



properties, the same may not registered without an NOC from the complainants.

14. It is submitted that immediately after joining the investigation, the accused persons, including the present applicants, sold 3 of the properties in question to one Naveen Kumar by forging the NOCs of the complainants and producing the same before the Sub-Registrar, Janak Puri, New Delhi. It is submitted that the applicants have cheated the complainants by receiving a full payment of the properties while the same were mortgaged with several financial institutions, and thereafter, sold the same by forging the NOCs. Apart from that, it is alleged that the applicants also extorted a sum of Rs.61,51,410/- on account of escalated cost and had refused to execute the documents in case the amount is not paid. Learned APP for the State relies upon **State of Jammu & Kashmir and others v. Dr. Saleem Ur Rehman**,⁸ to contend that there is no bar in conducting preliminary enquiry before registration of the FIR, and even if, it takes some time to conclude, the same cannot be a ground to quash the criminal proceedings. It is further submitted that other persons have also been cheated by the applicants who have filed their respective complaints which are also pending investigation.

15. Heard learned counsels for the parties and perused the record.

16. The applicants are not denying the receipt of the amount from the complainants nor is their case that the “Agreement To Sell Without

⁸ (2022) 13 SCC 675: 2021 SCC OnLine SC 1014



Possession' was not entered into by them with the complainants. It is their case that they had borrowed money from the complainant No. 4 who had, in turn, transferred the money into their accounts on behalf of himself as well as other complainants who are, in fact, his family members. The case of the prosecution, however, is that the said "Agreement To Sell Without Possession" were entered by the applicants and other accused persons knowing very well that they had no clear title of the subject properties at that relevant point of time since the said properties were mortgaged with different financial institutions, and thereafter, they proceeded to sell 3 of the properties by forging the NOCs of the complainants. During the course of the hearing, learned counsel appearing on behalf of the applicants, had drawn attention of this Court to 3 certified copies of the sale deeds which were obtained by them to demonstrate that there were no such NOCs in the said sale deeds. It is submitted that copies of sale deeds obtained by the applicants are dated 11.01.2024 in which there were no such NOCs. It is the case of the applicants that, even in the said sale deeds, there is no mention of NOCs. It is further pointed out that there is nothing on record to show that NOCs were sought by the Sub-Registrar at the time of registration of the sale deed on 03.07.2023. It is pertinent to note that during the course of the hearing, on a pointed query from learned APP for the State, it was submitted that there is neither a statement on behalf of the Sub-Registrar nor any other document to show that such NOCs were asked for by the Sub-Registrar at the time of the registration of the sale deed. It is not the case of the complainants that while filing the objection before the Sub-Registrar the same was under intimation to the applicants. It is, thus, the case of the applicant that, in the absence of any prior



requirement of such an NOC or of an objection raised by the Sub-Registrar for filing of such an NOC, they could not have possibly known about the requirement of filing NOC, and thus, no question of forging one arises. It is the case of the complainant that, on 12.03.2023, he had gone to visit the properties where he saw the sticker of HDB Finance placed there, and thereafter, he filed an objection before the Sub-Registrar on 13.03.2023. It is also pointed out that, even after the filing of objection before the Sub-Registrar on 11.03.2023, the complainants had made further payment on 21.03.2023.

17. When the judgments in the present bail applications were reserved for pronouncement, the complainants have, by way of applications, placed on record the FSL report dated 16.04.2025 which was obtained regarding the NOCs pasted in original in the books of Sub-Registrar, Janak Puri, New Delhi. As per the said FSL report, the specimen signatures of Mahavir Prasad, Complainant No.1, and Rekha, Complainant No.2, on the questioned original NOCs were found not to be of the same persons (respective complainants), whose signatures were sent for examination and regarding the specimen signatures of Rhythm Gautam, Complainant No.6, the FSL report has been sent with remarks that, “Further attempt can be made if admitted genuine signatures of similar model & design as appearing in the questioned signatures are procured & sent for examination.” It is pertinent to note that comparison was of the admitted signatures of the respective complainant(s) with those on NOCs. Perusal of the record further shows that the specimen



signatures of the present applicants have not been sent for examination to FSL so far.

18. Undoubtedly, the allegations *qua* the present applicants are grave in nature, for which they claim to have a defence, as noted in the preceding paragraphs. The veracity of the case of the prosecution as well as the defence will be determined during the course of the trial. The applicants have been in custody since their arrest on 23.12.2023 and have undergone incarceration for more than 1 year 4 months approximately. The prosecution has cited 37 witnesses and the chargesheet comprises of more than 1500 pages along with other relied upon documents. The matter is presently at the stage of consideration on point of charge before the learned Trial Court. The trial is not likely to get completed in near future.

19. At this stage, it would be relevant to refer to the following judicial precedents in relation to bail: -

19.1. In **Satender Kumar Antil v. CBI**⁹, the Hon'ble Supreme Court held as under: -

“Economic offences (Category D)

90. What is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise. This issue has already been dealt with by this Court in *P. Chidambaram v. Directorate of Enforcement* [*P. Chidambaram v. Directorate of Enforcement*, (2020) 13 SCC 791 : (2020) 4 SCC (Cri) 646] , after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of

⁹ (2022) 10 SCC 51



sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis. Suffice it to state that law, as laid down in the following judgments, will govern the field:

Precedents

91.P. Chidambaram v. Directorate of Enforcement [P. Chidambaram v. Directorate of Enforcement, (2020) 13 SCC 791 : (2020) 4 SCC (Cri) 646] : (SCC pp. 804-805, para 23)

“23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench [Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 : 1980 SCC (Cri) 465] of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of —grave offence and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may



have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.”

92. Sanjay Chandra v. CBI [Sanjay Chandra v. CBI, (2012) 1 SCC 40 : (2012) 1 SCC (Cri) 26 : (2012) 2 SCC (L&S) 397] : (SCC pp. 62-64, paras 39-40 & 46)

“39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds : the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

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.



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.”

Role of the court

93. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

94. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the criminal courts. Any conscious failure by the criminal courts would constitute an affront to liberty. It is the pious duty of the criminal court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the constitutional thrust with responsibility mandated on them by acting akin to a high priest.

95. This Court in *Arnab Manoranjan Goswami v. State of Maharashtra* [*Arnab Manoranjan Goswami v. State of Maharashtra*, (2021) 2 SCC 427 : (2021) 1 SCC (Cri) 834], has observed that : (SCC pp. 471-72, para 67)

“67. Human liberty is a precious constitutional value, which is undoubtedly subject to regulation by validly enacted legislation. As such, the citizen is subject to the edicts of criminal law and procedure. Section 482 recognises the inherent power of the High



Court to make such orders as are necessary to give effect to the provisions of CrPC _or prevent abuse of the process of any court or otherwise to secure the ends of justice'. Decisions of this Court require the High Courts, in exercising the jurisdiction entrusted to them under Section 482, to act with circumspection. In emphasising that the High Court must exercise this power with a sense of restraint, the decisions of this Court are founded on the basic principle that the due enforcement of criminal law should not be obstructed by the accused taking recourse to artifices and strategies. The public interest in ensuring the due investigation of crime is protected by ensuring that the inherent power of the High Court is exercised with caution. That indeed is one—and a significant—end of the spectrum. The other end of the spectrum is equally important : the recognition by Section 482 of the power inhering in the High Court to prevent the abuse of process or to secure the ends of justice is a valuable safeguard for protecting liberty. *The Code of Criminal Procedure, 1898 was enacted by a legislature which was not subject to constitutional rights and limitations; yet it recognised the inherent power in Section 561-A. Post-Independence, the recognition by Parliament [Section 482CrPC, 1973] of the inherent power of the High Court must be construed as an aid to preserve the constitutional value of liberty. The writ of liberty runs through the fabric of the Constitution. The need to ensure the fair investigation of crime is undoubtedly important in itself, because it protects at one level the rights of the victim and, at a more fundamental level, the societal interest in ensuring that crime is investigated and dealt with in accordance with law. On the other hand, the misuse of the criminal law is a matter of which the High Court and the lower courts in this country must be alive.* In the present case, the High Court could not but have been cognizant of the specific ground which was raised before it by the appellant that he was being made a target as a part of a series of occurrences which have been taking place since April 2020. The specific case of the appellant is that he has been targeted because his opinions on his television channel are unpalatable to authority. Whether the appellant has established a case for quashing the FIR is something on which the High Court will take a final view when the proceedings are listed before it but we are clearly of the view that in failing to make even a prima facie evaluation of the FIR, the High Court abdicated its constitutional duty and function as a protector



of liberty. Courts must be alive to the need to safeguard the public interest in ensuring that the due enforcement of criminal law is not obstructed. The fair investigation of crime is an aid to it. Equally it is the duty of courts across the spectrum—the district judiciary, the High Courts and the Supreme Court—to ensure that the criminal law does not become a weapon for the selective harassment of citizens. Courts should be alive to both ends of the spectrum—the need to ensure the proper enforcement of criminal law on the one hand and the need, on the other, of ensuring that the law does not become a ruse for targeted harassment. Liberty across human eras is as tenuous as tenuous can be. Liberty survives by the vigilance of her citizens, on the cacophony of the media and in the dusty corridors of courts alive to the rule of (and not by) law. Yet, much too often, liberty is a casualty when one of these components is found wanting.”

(emphasis supplied)

96. We wish to note the existence of exclusive Acts in the form of Bail Acts prevailing in the United Kingdom and various States of USA. These Acts prescribe adequate guidelines both for investigating agencies and the courts. We shall now take note of Section 4(1) of the Bail Act of 1976 pertaining to United Kingdom:

“General right to bail of accused persons and others.—

4. (1) A person to whom this section applies shall be granted bail except as provided in Schedule 1 to this Act.”

97. Even other than the aforesaid provision, the enactment does take into consideration of the principles of law which we have discussed on the presumption of innocence and the grant of bail being a matter of right.

98. Uniformity and certainty in the decisions of the court are the foundations of judicial dispensation. Persons accused with same offence shall never be treated differently either by the same court or by the same or different courts. Such an action though by an exercise of discretion despite being a judicial one would be a grave affront to Articles 14 and 15 of the Constitution of India.

99. The Bail Act, 1976 of United Kingdom takes into consideration various factors. It is an attempt to have a comprehensive law dealing with bails by



following a simple procedure. The Act takes into consideration clogging of the prisons with the undertrial prisoners, cases involving the issuance of warrants, granting of bail both before and after conviction, exercise of the power by the investigating agency and the court, violation of the bail conditions, execution of bond and sureties on the unassailable principle of presumption and right to get bail. Exceptions have been carved out as mentioned in Schedule I dealing with different contingencies and factors including the nature and continuity of offence. They also include Special Acts as well. We believe there is a pressing need for a similar enactment in our country. We do not wish to say anything beyond the observation made, except to call on the Government of India to consider the introduction of an Act specifically meant for granting of bail as done in various other countries like the United Kingdom. Our belief is also for the reason that the Code as it exists today is a continuation of the pre-Independence one with its modifications. We hope and trust that the Government of India would look into the suggestion made in right earnest.”

19.2. In **Sanjay Chandra v. CBI**¹⁰, the Hon’ble Supreme Court 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

¹⁰ (2012) 1 SCC 40



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.”

19.3. In Gurbaksh Singh Sibbia v. State of Punjab¹¹, a Constitution Bench of the Hon’ble Supreme Court, while determining the scope of Section 438 of the CrPC, held as under: -

“27. It is not necessary to refer to decisions which deal with the right to ordinary bail because that right does not furnish an exact parallel to the right to anticipatory bail. It is, however, interesting that as long back as in 1924 it was held by the High Court of Calcutta in *Nagendra v. King-Emperor* [AIR 1924 Cal 476, 479, 480 : 25 Cri LJ 732] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment. In two other cases which, significantly, are the ‘Meerut Conspiracy cases’ observations are to be found regarding the right to bail which deserve a special mention. In *K.N. Joglekar v. Emperor* [AIR 1931 All 504 : 33 Cri LJ 94] it was observed, while dealing with Section 498 which corresponds to the present Section 439 of the Code, that it conferred upon the Sessions Judge or the High Court wide powers to grant bail which were not handicapped by the restrictions in the preceding Section 497 which corresponds to the present Section 437. It was observed by the court that there was no hard and fast rule and no inflexible principle governing the exercise of the discretion conferred by Section 498 and that the only principle which was established was that the discretion should be exercised judiciously. In *Emperor v. Hutchinson* [AIR 1931 All 356, 358 : 32 Cri LJ 1271] it was said that it was very unwise to make an attempt to lay down

¹¹ (1980) 2 SCC 565



any particular rules which will bind the High Court, having regard to the fact that the legislature itself left the discretion of the court unfettered. According to the High Court, the variety of cases that may arise from time to time cannot be safely classified and it is dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes. It was observed that the principle to be deduced from the various sections in the Criminal Procedure Code was that grant of bail is the rule and refusal is the exception. An accused person who enjoys freedom is in a much better position to look after his case and to properly defend himself than if he were in custody. As a presumably innocent person he is therefore entitled to freedom and every opportunity look after his own case. A presumably innocent person must have his freedom to enable him to establish his innocence.”

19.4. In Vaman Narayan Ghiya v. State of Rajasthan¹², the Hon’ble Supreme Court held as under: -

“7. Personal liberty is fundamental and can be circumscribed only by some process sanctioned by law. Liberty of a citizen is undoubtedly important but this is to balance with the security of the community. A balance is required to be maintained between the personal liberty of the accused and the investigational right of the police. It must result in minimum interference with the personal liberty of the accused and the right of the police to investigate the case. It has to dovetail two conflicting demands, namely, on the one hand the requirements of the society for being shielded from the hazards of being exposed to the misadventures of a person alleged to have committed a crime; and on the other, the fundamental canon of criminal jurisprudence viz. the presumption of innocence of an accused till he is found guilty. Liberty exists in proportion to wholesome restraint, the more restraint on others to keep off from us, the more liberty we have. (See *A.K. Gopalan v. State of Madras* [1950 SCC 228 : AIR 1950 SC 27])

8. The law of bail, like any other branch of law, has its own philosophy, and occupies an important place in the administration of justice and the concept of bail emerges from the conflict between the police power to restrict liberty of a man who is alleged to have committed a crime, and presumption of innocence in favour of the alleged criminal. An accused is

¹² (2009) 2 SCC 281



not detained in custody with the object of punishing him on the assumption of his guilt.”

19.5. In Kalyan Chandra Sarkar v. Rajesh Ranjan¹³, the Hon’ble Supreme Court had held as under: -

“**18.** It is trite law that personal liberty cannot be taken away except in accordance with the procedure established by law. Personal liberty is a constitutional guarantee. However, Article 21 which guarantees the above right also contemplates deprivation of personal liberty by procedure established by law. Under the criminal laws of this country, a person accused of offences which are non-bailable is liable to be detained in custody during the pendency of trial unless he is enlarged on bail in accordance with law. Such detention cannot be questioned as being violative of Article 21 since the same is authorised by law. But even persons accused of non-bailable offences are entitled to bail if the court concerned comes to the conclusion that the prosecution has failed to establish a prima facie case against him and/or if the court is satisfied for reasons to be recorded that in spite of the existence of prima facie case there is a need to release such persons on bail where fact situations require it to do so. In that process a person whose application for enlargement on bail is once rejected is not precluded from filing a subsequent application for grant of bail if there is a change in the fact situation. In such cases if the circumstances then prevailing require that such persons be released on bail, in spite of his earlier applications being rejected, the courts can do so.”

19.6 The Hon’ble Supreme Court in **Prasanta Kumar Sarkar v. Ashis Chatterjee¹⁴**, while laying down the parameters for granting or refusing the grant of bail, had observed and held as under: -

“**9.** ... It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

¹³ (2005) 2 SCC 42

¹⁴ (2010) 14 SCC 496



- (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.

[See *State of U.P. v. Amarmani Tripathi* [(2005) 8 SCC 21 : 2005 SCC (Cri) 1960 (2)] (SCC p. 31, para 18), *Prahlad Singh Bhati v. NCT of Delhi* [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] , and *Ram Govind Upadhyay v. Sudarshan Singh* [(2002) 3 SCC 598 : 2002 SCC (Cri) 688].]”

20. After examination of the aforesaid judgments, it can be said that gravity of an offence would be a factor at the time of consideration for grant of bail, but, at the same time, it cannot be the only criteria for denying bail either. As held in the aforesaid precedents, the object of bail is neither punitive nor preventative and the same is to secure the presence of the accused at the trial. The applicants had joined the preliminary inquiry for six months before the registration of the FIR and their arrest. The underlying principle in the aforesaid judicial pronouncements is that a person, who otherwise has roots in the society and is satisfying the other general conditions for grant of bail should, after completion of investigation, not be kept in continued judicial incarceration as a matter of punishment, even before the conclusion of trial.

21. In the present case, co-accused Sanjay Sachdeva was granted bail *vide* order dated 06.08.2024, passed by a Coordinate bench of this Court in BAIL APPLN. 2029/2024. It is a matter of record that an application being



CRL.M.A. 9288/2025 was moved by the complainant(s) for recalling of the said order, however, the same was dismissed by the same Bench *vide* order dated 04.04.2025 passed in the aforesaid bail application. Thereafter, a similar application being CRL.M.A. 32669/2024 seeking same reliefs was also withdrawn as not pressed *vide* order dated 08.04.2025 passed by Coordinate Bench of this Court in the said bail application.

22. Admittedly, the investigation in the present case in complete and the main chargesheet, as well as the supplementary chargesheet with the FSL report stand filed before the learned Trial Court. The evidence in the present case, primarily, is documentary in nature and all material documents have been recovered and are in the custody of the prosecution. In view of the judicial precedents cited hereinabove, and in the facts and circumstances of the present case, the present applications are allowed.

23. The applicants are directed to be released on bail upon their furnishing a personal bonds in the sum of Rs. 50,000/- each alongwith two (2) sureties each of like amount to the satisfaction of the learned Trial Court/Link Court, further subject to the following conditions: -

- i. The memo of parties shows that the applicants are residing at 110B, WA Block, Tihar Village, Tilak Nagar S.O. West Delhi, Delhi - 110018. In case of any change of address, the applicants are directed to inform the same to the learned Trial Court/Investigating Officer.



- ii. The applicants shall not leave India without the prior permission of the learned Trial Court.
- iii. The applicants are directed to give all their mobile numbers to the Investigating Officer and keep them operational at all times.
- iv. The applicants shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
- v. In case it is established that the applicants have tried to tamper with the evidence, the prosecution will be at liberty to apply for cancellation of their bail.

24. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case or pending trial before the learned Trial Court and observations made herein are only for the purposes of the present bail applications.

25. The applications stand allowed and disposed of along with all the pending application(s), if any.

26. Let a copy of this judgment be communicated to the concerned Jail Superintendent for necessary information and compliance.

27. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA, J.

MAY 9, 2025/sn