



2026:DHC:2063



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

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Date of Decision: 12.03.2026

+ **BAIL APPLN. 2666/2025, CRL.M.A. 20729/2025, CRL.M.A. 20730/2025 & CRL.M.(BAIL) 1548/2025**

UBAIDUR RAHMAN

.....Petitioner

Through: Mr. Raman Yadav, Advocate.

versus

STATE OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for State
with SI Sumeet Poonia.

Ms. Puneeta Kapur, Advocate for
complainant *de facto*.

CORAM: JUSTICE GIRISH KATHPALIA

J U D G M E N T (ORAL)

1. The accused/applicant seeks anticipatory bail in case FIR No. 263/2025 of PS Vivek Vihar for offence under Section 420/406/34 IPC.

2. This anticipatory bail application came up for the first hearing on 21.07.2025 before the predecessor bench and thereafter continued getting adjourned before different benches. By way of order dated 15.12.2025, the



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predecessor bench granted interim protection to the accused/applicant from arrest. Thereafter, along with 179 such old pending bail applications, this application was transferred to this bench and today is the first hearing before me.

3. Broadly speaking, prosecution case, as explained by learned counsel for complainant *de facto* is as follows. The accused/applicant entered into an agreement with the complainant *de facto* under which the accused/applicant was to manufacture products which would be exported to Saudi Arabia by the complainant *de facto*. The payment received from Saudi Arabia client was to be shared between the complainant *de facto* and the accused/applicant. Initially, transactions were running smooth and even advance payments were received by the complainant *de facto* to be used for manufacturing of the product. However, subsequently, the Saudi client did not make payment. Hence, this complaint alleging cheating against the accused/applicant.

4. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Sumeet Poonia as well as learned counsel for complainant *de facto*.

5. Learned counsel for accused/applicant argues that it is only a commercial dispute between the complainant *de facto* and Saudi Arabia clients, which has been given colour of criminality, roping in the



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accused/applicant.

6. Learned APP for State submits that the IO did not submit any status report, so it is only on the basis of verbal instructions that he would address. It is submitted by learned APP for State that the Saudi clients are relatives of the accused/applicant. In this regard, learned APP for State refers to the Memorandum of Understanding (MoU) dated 05.08.2013 between the accused/applicant and complainant *de facto* in which the accused/applicant undertook to be solely and exclusively responsible to market and arrange export orders.

7. Learned counsel for complainant *de facto* also refers to the same MoU to contend that it was exclusive responsibility of the accused/applicant to ensure recovery of money from the Saudi client. It is further submitted by learned counsel for complainant *de facto* that initially the accused/applicant gained trust of the complainant *de facto* by making advance payments. It is also submitted that the accused/applicant was a middleman between the complainant *de facto* and the Saudi client in the sense that it was duty of the accused/applicant to ensure payments and continuation of the business influx. It is further submitted that when the matter was referred to mediation, the accused/applicant refused to call the Saudi client to India. Learned counsel for complainant *de facto* also submits that the complainant *de facto* is not interested in filing of civil suit for recovery of money because he is not confident about the same.



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8. At the outset, one has to keep in mind the legal position that not every failed business transaction can be treated as a case of cheating and/or criminal breach of trust. The litmus test to distinguish what is only a civil transaction and what is a case of cheating, is to probe for existence of dishonest intention, if any, at the time of inception of the transaction. That can be done by way of full dress trial. But for the present purposes of deciding on liberty of an individual, this court cannot ignore certain vital aspects which have been submitted on behalf of complainant *de facto*. Those aspects are that the accused/applicant and the complainant *de facto* commenced their transactions by executing a written MoU; that no payment was to be made by the accused/applicant insofar as the job of the accused/applicant was only to ensure that the product manufactured by him gets exported to the Saudi client and payment is received; that some of the payments received by the complainant *de facto* were advance payments; and that it is not just the complainant *de facto*, but even the accused/applicant who did not receive his share of profits in the last consignments. Of course, I must add a cautious rider that further analysis on these aspects shall be done by the trial court taking independent view.

9. For the time being, I find no reason to deprive liberty to the accused/applicant.



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10. The anticipatory bail application is allowed and it is directed that in the event of his arrest, the accused/applicant shall be released on bail, subject to his furnishing a personal bond in the sum of Rs. 10,000/- with one surety in the like amount to the satisfaction of the IO/SHO concerned. The accompanying applications stand disposed of.

**GIRISH KATHPALIA
(JUDGE)**

MARCH 12, 2026/ry