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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 17.07.2025

+ BAIL APPLN. 2142/2024
NITIN KUMAR SHARMAPetitioner
Through: Mr. Vishal Gosain and Mr.
Nilanjan Dey, Advs.

versus

STATE OF NCT OF DELHIRespondent
Through: Mr. Satish Kumar, APP for
State with SI Manoj Kumar, PS
EOW.
Mr. Pranav Proothi, Adv.
Advocate for complainant.
(appearance not given)

CORAM:
HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

1. By way of the present petition under Section 439 read with Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks the grant of Regular Bail in FIR No. 152/2018 dated 24.07.2018 for offence under Sections 406, 409, 420 and 120B of the Indian Penal Code, 1860 registered at Police Station Economic Offences Wing.

2. It is the case of the prosecution that the present FIR was registered on the basis of a complaint filed by Sh. R.S. Rohilla and others. As per the complainants, M/s Asian Developers Ltd. had, in



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the year 2012, advertised for the booking of flats and shops. Relying on such advertisement, various buyers booked units and made payments towards the same. The construction work, it is stated, continued up to December 2013 but thereafter came to a halt. It is further alleged that the accused persons executed agreements with the buyers despite being fully aware that they had no authority to sell the said units. The fact that the plot in question had been allotted solely for the purpose of constructing dwelling units for the staff of M/s Saera Auto India Pvt. Ltd. was allegedly concealed from the buyers. The builder, it is stated, had also assured time bound possession within a period of 27 months.

3. During the course of investigation, it has come on record that 48 complaints have been received from victims in the present case, and the total amount paid by them to the company is Rs. 11,72,74,888/-. The investigation has revealed that plot, where the alleged project under the name 'Bawal Residency' was initiated by M/s Asian Developers Ltd. had not been allotted to the said company, which instead had been allotted to M/s Saera Auto India Pvt. Ltd. The investigation has further established that M/s Asian Developers Ltd. neither had any authority nor entitlement to sell or enter into Agreements to Sell in respect of any property as mentioned in the inventory/flat/shop pertaining to the project at the said plot.

4. It is further the case of the prosecution that M/s Asian Developers Ltd., was well aware from the very inception, specifically from the date of the Agreement dated 16.11.2012 entered into with



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M/s Saera Auto India Pvt. Ltd. about their role and power of not being authorized to sell or execute any document for transfer of above mentioned property on the said plot. Despite having no such authority, M/s Asian Developers Ltd. went on to induce and lure members of the general public to invest in and purchase flats or shops in the project under the name 'Bawal Residency'. It is alleged that the accused company neither returned the money nor handed over possession.

5. During the investigation, notices under Section 41A Criminal Procedure Code, 1973 (Cr.P.C.) were duly served upon the petitioner at his available addresses. However, the petitioner deliberately chose to evade his arrest. Consequently, he was declared a Proclaimed Offender on 07.09.2021. Thereafter, on 24.06.2023, the petitioner was apprehended under Section 41(1)(C) Cr.P.C. by the staff of the Special Cell, Janakpuri, Delhi Police, and was arrested in the present case on 25.06.2023. It is stated that the supplementary charge sheet *qua* the present petitioner has already been filed.

6. It is submitted that out of total 48 complainants, 25 complainants/victims expressed that their matters have been settled with the accused persons and they received their settlement amounts.

7. The learned counsel for the petitioner submits that the petitioner has been in custody since 24.06.2023, and that no substantial proceedings have taken place in the matter since the filing of the Charge-Sheet. He further submits that the case is presently at the stage of consideration on Charge, and given the number of witnesses cited by the prosecution and the voluminous record of the case, it is evident



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that the trial is likely to take considerable time to conclude in the near future.

8. He submits that the principal promoter of M/s Saera Auto India Pvt. Ltd, Manjeet Johar, is also involved in the present case and he has not been arrested till date by the investigating agency.

9. He further submits that the co-accused, namely Dinesh Sharma, who has been assigned an identical role, has already been enlarged on bail by a Co-ordinate Bench of this Court *vide* order dated 03.04.2024, thus, on the ground of parity alone, the petitioner is entitled to bail in this case.

10. The learned counsel submits that, out of the total number of complainants, majority have settled their claims and no grievance survives insofar as they are concerned. However, claims of the remaining few would also be settled in due course of time.

11. He submits, nonetheless, the criminal proceedings cannot be used as money recovery proceedings, and further it cannot be a consideration at the time of granting bail. In support of this contention, reliance was placed upon *Bimla Tiwari vs State of Bihar*, (2023) 11 SCC 607.

12. He further submits that the petitioner was granted interim bail and had duly surrendered before the concerned Jail Authorities within the stipulated time. It is, thus, contended that the petitioner cannot be said to be a flight risk.

13. The learned APP appearing on behalf of the State has fairly conceded that the role attributed to the petitioner is similar to that of



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the co-accused Dinesh, who has already been enlarged on bail by a Co-ordinate Bench of this Court.

14. However, he submits that few FIRs of similar nature are pending against the petitioner and being a habitual offender, he is not entitled to regular bail.

15. In rebuttal, the learned counsel for the petitioner submits that the co-accused Dinesh Sharma was also involved in same FIR, in which the name of the petitioner figures and same has been considered by learned Co-ordinate Bench while granting bail to Dinesh Sharma.

16. The learned counsel for the complainant while seeking dismissal of the bail application submits that the loans availed by the complainants for the purpose of purchasing the said units are still outstanding and remain unpaid and the petitioner is not making any effort to resolve the disputes.

17. Having heard the learned counsel for the petitioner, the learned APP, as well as the learned counsel for the complainant, and having perused the record, it emerges that the role attributed to the petitioner, being the Director of M/s Asian Developers Private Limited, is that he had facilitated the sale of flats despite knowing that the said flats were not available for sale. It was further alleged that M/s Asian Developers Private Limited neither returned the money collected nor handed over the flats to the complainants.

18. However, it has been submitted that the dispute with most of the complainants has been settled, and that the dispute with the remaining complainants would be settled in due course.



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19. It is stated that the petitioner is in custody since 24.06.2023. It is not disputed that the petitioner was granted interim bail *vide* Order dated 26.03.2025, pursuant whereeto, he surrendered before the concerned Jail Authorities within the stipulated time period, thereby showing compliance with the conditions imposed upon him.

20. The petitioner as well as the co-accused Dinesh Sharma are stated to be involved in the following criminal cases:-

Sr. No.	FIR No.	Jurisdiction
1.	FIR No. 180/2018	EOW, New Delhi
2.	FIR No. 53/2018	Kasola, Rewari, Haryana
3.	FIR No. 1184/2019	Gurgaon, Sadar
4.	FIR No. 1185/2019	Gurgaon
5.	FIR No. 1186/2019	Gurgaon
6.	FIR No. 07/2019	Kasola, Rewari, Haryana
7.	FIR No. 156/2020	Parliament Street, New Delhi

21. From the above, it appears that out of the 07 FIRs, in 05 FIRs, petitioner is not arrested and in FIR No. 07/2019, cancellation report is filed by the Police.

22. Most Importantly, the co-accused, Dinesh Sharma, who has been assigned a role similar to that of the petitioner, has been granted



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regular bail by a Coordinate Bench of this Court *vide* order dated 03.04.2024.

23. In view of the conspectus of facts and circumstances, particularly the fact that the co-accused, Dinesh Sharma, has been granted bail, the petitioner is directed to be released on regular bail in the present FIR on his furnishing a personal bond in the sum of Rs. 1.00,000/- with two sureties in the like amount, to the satisfaction of the learned Trial Court/ CMM/ Duty Magistrate and further subject to the following conditions:-

- (i) The petitioner shall not leave the NCT of Delhi without prior permission of the learned Trial Court;
- (ii) The petitioner shall surrender his passport before the learned Trial Court and would not travel abroad without taking prior permission from the learned Trial Court.
- (iii) The petitioner shall report at P.S. Economic Offences Wing once a week i.e. every Wednesday at 04:00 PM for marking his presence;
- (iv) The petitioner shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address;
- (v) The petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing;
- (vi) The petitioner is directed to give his mobile number to the Investigating Officer and keep it operational at all times;
- (vii) The petitioner shall not contact, nor visit, nor offer any



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inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case;

(viii) The petitioner shall also not tamper with the evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.

24. It is made clear that no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of bail alone.

25. A copy of this order be sent to the Jail Superintendent concerned for information and necessary compliance.

26. Accordingly, the present Bail Application along with pending application stands disposed of.

SHALINDER KAUR, J

JULY 17, 2025/SK