



2025:DHC:9435



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

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Pronounced on: 29.10.2025

+ **BAIL APPLN. 3069/2025 & CRL.M.(BAIL) 1728/2025 FOR
GRANT OF INTERIM ANTICIPATORY BAIL**

MALINI DAHIYA

.....Petitioner

Through: Mr. Narender Hooda, Sr. Adv.
with Mr. Pardeep Dahiya, Ms.
Pallavi Hooda, Mr. Shiv
Bhatnagar, Mr. Utkarsh
Bhukkal, Ms. Tannu, Advs.

versus

STATE (GOVT. OF NCT)

.....Respondent

Through: Mr. Tarang Srivastav, APP SI
Rahul Malik, PS Maurya
Enclave.
Ms. Kadambari Singh, Sr. Adv.
with Mr. Sunil Dahiya, Ms.
Kopal Yadav, Mr. Sudesh
Kumar, Mr. Arjun Singh, Mr.
Rahul Parashar, Mr. Akshay
Chauhan, Mr Praweer Singh,
Advs. for complainant.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.



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1. This is an application for grant of anticipatory bail in case FIR No. 232/2025 under Sections 406/420/120B IPC registered at P.S. Maurya Enclave.

Brief facts:

2. The FIR was registered on the complaint of Satbir Chikara, who alleged that accused Amardeep Dahiya, his wife Malini Dahiya, and father Abhey Ram Dahiya induced him to advance a loan of over ₹2.40 crores between 2017–2018 by assuring repayment, transfer of residential plots at Panchkula, and partnership in their businesses. Despite execution of agreements to sell dated 18.09.2017 and further assurances through agreements in 2018 and 2024, the accused neither repaid the loan nor transferred the properties, which were already mortgaged and later sold to third parties. It is further alleged that the accused siphoned off amounts meant for ASD Tobacco Pvt. Ltd. for personal use, and through dishonest misrepresentations and conspiracy cheated the complainant, causing wrongful loss of about Rs. 6.37 crores.

Submissions if the petitioner:

3. Learned senior counsel for the petitioner submitted that the complaint under Sections 200 and 156(3) CrPC filed on 24.05.2024 alleged that in September 2017 there was an agreement to sell between the complainant, the deceased husband of the petitioner, and the petitioner, in which it was represented that the property was free from encumbrances, whereas in fact the properties were mortgaged and loan



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was going on. It is pointed out that vide order dated 18.02.2025 (Annexure P2), the learned Magistrate rejected the application under Section 156(3) CrPC holding that no FIR was required to be registered, as no investigation or recovery necessitating police assistance was warranted at that stage, and that the matter could be dealt with under Section 202 CrPC (or Section 225 BNSS). However, in revision, vide order dated 17.05.2025, the revisional court directed registration of an FIR only on the premise that cheated money needed to be recovered, which, according to the petitioner, is wholly untenable since mere recovery cannot justify FIR registration in relation to an agreement to sell of 2017. The revisional order is under challenge in separate proceedings.

4. It is further submitted that the petitioner had no knowledge of the dispute until she was served with notice in the revision petition, where she clarified that she had been living separately from her husband for the last 15 years, had never signed any such agreement to sell, and sought that FSL be conducted on her alleged signatures on the agreement. She joined investigation on 11.07.2025 and gave specimen signatures of hers, yet the status report is silent as to any FSL examination or its result. It is submitted that the complainant himself admits that the sum of Rs. 2.40 crores was paid to the deceased husband Amarjeet Singh in his personal account as a loan, which is also evident from the MOU (Annexure P7), expressly providing that in case of default the complainant had rights to recover



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the said amount through sale of the secured property, with no reference whatsoever to the petitioner. A subsequent MOU dated 02.04.2024 (Annexure P8) also records that the money was paid solely to Amarjeet Singh.

5. Learned counsel emphasised that Abhay Ram Dahiya, co-accused and father-in-law of the petitioner, has already been granted anticipatory bail, and that the petitioner, an estranged wife who has been living separately for 15 years, had no role in the alleged transaction, never received any money, and has rather been servicing the loan on the property post the husband's death in October 2024. It is submitted that despite her cooperation, proceedings under Section 84 BNSS were wrongly issued against her on 22.09.2025, contrary to the law laid down in *Mangali Devi & Ors. v. State of Bihar* 2025 SCC OnLine Pat 2629, wherein it was held that a person seeking anticipatory bail cannot be treated as absconding for the purpose of Section 84 BNSS. Reliance is also placed on *Jagdish Das v. State of NCT of Delhi* 2025 SCC OnLine Del 4553, wherein it was held that in exceptional cases, anticipatory bail can be granted despite proceedings under Section 82 CrPC. Learned senior counsel thus contended that the petitioner, who admittedly never received any money from the complainant, is being falsely implicated, and the present case is a clear misuse of the process of law.

Submissions of the State:



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6. Learned APP for the State submitted that despite the petitioner's claim of estrangement from her husband, she continues to reside in her matrimonial home, and reliance is placed on documents of Magma Housing Finance dated 2018 showing that loans on both properties were cleared with the petitioner signing as co-borrower along with her deceased husband and father-in-law. It has been pointed out that during investigation in FIR No. 232/2025, the original Agreements to Sell dated 18.09.2017 were seized, and certified copies from HUDA and Magma Housing Finance revealed that both plots were later sold by the petitioner and her husband to third parties in October and November 2018, despite the earlier agreements with the complainant.

7. Learned APP further submitted that loan-related documents indicate the petitioner and her father-in-law as co-borrowers, though they now deny or dispute their signatures, raising doubts about their veracity. It is emphasized that the investigation is still at an early stage, with crucial documents yet to be obtained, including the loan application from Magma Housing Finance, while the petitioner herself admitted to repaying substantial sums towards the loans despite claiming ignorance of the borrowings. Lastly, it is submitted that since the NBWs issued on 22.08.2025 remained unexecuted and proclamation under Section 84 BNSS was thereafter issued on 22.09.2025, custodial interrogation of the petitioner is necessary and her anticipatory bail plea deserves to be rejected.

Submissions of the complainant:



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8. Learned counsel for the complainant submitted that the petitioner has taken inconsistent stands, as she was present during the MOUs executed in 2017, 2018, and 2024, and being a co-owner of the plots, had given them as security for loans advanced by the complainant. It is submitted that the petitioner acted in collusion with her deceased husband in a modus operandi of raising loans on mortgaged properties and thereafter selling them to third parties instead of the complainant, thereby misappropriating huge sums of money. Emphasis has been drawn to the fact that though the petitioner denied her signatures on the Agreements to Sell and loan documents, she admitted during interrogation to having repaid Rs. 1.70 crores towards Magma Housing Finance and HUDA despite professing ignorance of the agreements. It is lastly submitted that the petitioner, though appearing on online platforms, has absconded from her matrimonial home, and reliance is placed on *Sunil Grover v. State* 2012 (3) JCC 2183, in support of the opposition to the grant of anticipatory bail.

Analysis and Conclusion:

9. Having heard the parties and perused the material on record, it is evident that the allegations against the petitioner arise out of an Agreement to Sell dated 18.09.2017, subsequent MOUs, and certain loan documents. The petitioner has consistently denied her signatures on these documents and has already furnished her specimen signatures to the investigating agency for FSL examination. The evidence in this



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case is primarily documentary in nature and is already with the investigating agency. Hence, custodial interrogation of the petitioner is not required.

10. It is further significant that the complainant admits that the amount of Rs. 2.40 crores was paid to the petitioner's late husband in his personal account, which is also recorded in the MOUs. These MOUs show that the liability was personal to the deceased husband and did not involve the petitioner. The petitioner claims that she has been living separately from her husband for nearly 15 years, which further weakens the allegation of collusion. There is nothing on record to show that she directly received any money from the complainant.

11. The petitioner has cooperated with the investigation and joined investigation on 11.07.2025, where she gave her specimen signatures and answered questions for several hours. In such circumstances, during the pendency of the present petition, the issuance of proclamation under Section 84 BNSS (equivalent to Section 82 CrPC) on 22.09.2025 cannot be justified, as a person who is cooperating with investigation cannot be treated as absconding. This view is supported by the judgment in *Mangali Devi v. State of Bihar* (supra). The initiation of such proceedings in the present case was therefore unwarranted.

12. The contention of the State and the complainant that the petitioner acted in concert with her husband in cheating is, at this stage, not supported by cogent material. Whether she was aware of or



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participated in her husband's acts is a matter for trial, not for anticipatory bail consideration. Since the case rests on documents already seized by the investigating agency, her custody would serve no meaningful purpose. It is well settled that bail is the rule and jail the exception.

13. As held in *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694, the Supreme Court laid down various factors to be considered while deciding an application for anticipatory bail, including the nature and gravity of the accusation, the exact role of the accused, the possibility of misuse of arrest to humiliate the accused, and whether the allegations appear motivated or exaggerated. It was emphasised that while ensuring fair and full investigation, undue harassment and unjustified detention must be avoided. It was further held that in cases where there is doubt about the genuineness of the prosecution or the role of the accused is not clearly established, bail should ordinarily be granted.

14. It also cannot be overlooked that after the death of her husband in October 2024, the petitioner herself has been paying the outstanding loans to protect the properties which she was bound to sell to a party to keep her sustenance. This demonstrates her *bona fides* rather than dishonest intent. Further, when the evidence is documentary and in police custody, and the petitioner has already joined the investigation, her liberty ought not to be curtailed. Thus, her pre-trial arrest would be unjustified.



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15. It is trite law that a Court while deciding a Bail Application has to keep in mind the principal rule of bail which is to ascertain whether the accused is likely to appear before the Court for trial/investigation. There are other broad parameters also like gravity of offence, likelihood of accused repeating the offence while on bail, whether she would influence the witnesses and tamper with the evidence, her antecedents are required to be considered in such cases.

16. In **Pradip N. Sharma v. State of Gujarat** SLP (Crl.) No. 354 of 2019, the Supreme Court held that anticipatory bail is justified where allegations are primarily documentary in nature and custodial interrogation is not essential. The Court emphasized that when the investigation can be completed by examining official records and there is no material to show evasion or likelihood of tampering with evidence, pre-trial detention serves no purpose. It reaffirmed the principle that anticipatory bail should be granted in such cases, subject to the accused's cooperation with the investigation which reads as under;

“18.However, considering the nature of the allegations and the fact that the matter is to be investigated primarily based on documentary evidence, the Court is inclined to grant the relief of anticipatory bail to the appellant. The offences alleged pertain to the exercise of administrative discretion in the passing of an order rather than direct physical involvement in any overt criminal act requiring custodial interrogation. The prosecution has not demonstrated any necessity for the custodial interrogation of the appellant beyond scrutiny of official records, which can be done without placing him in detention.



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Additionally, the appellant has expressed his willingness to cooperate with the investigation, and no material has been placed before this Court to suggest that he has evaded or obstructed the investigation in any manner. Furthermore, it is well-settled that anticipatory bail can be granted where custodial interrogation is not essential, particularly in cases where the allegations hinge on official records and the presence of the accused can be secured without pre-trial detention. The Court also takes note of the fact that the FIR in question is part of a series of similar allegations against the appellant, and in the absence of any concrete material indicating a likelihood of tampering with evidence or influencing witnesses, the grant of anticipatory bail is justified. Accordingly, while the appellant shall cooperate with the investigation as and when required, he shall not be taken into custody, subject to conditions imposed hereinafter to ensure his participation in the inquiry process.”

17. In light of the above discussion, this Court holds that custodial interrogation of the petitioner is unnecessary. She has joined the investigation, the proclamation proceedings dated 22.09.2025 cannot stand in law for the reasons noted above, and the allegations against her are possibly derivative of her late husband's actions. It may also be noted that the alleged cheating took place in the year 2017 and the FIR came to be registered in the year 2025, by directions of the Sessions Court. Hence considering the above overall facts and circumstances, it is directed that in the event of arrest, the petitioner shall be released on bail on furnishing a personal bond of Rs. 30,000/- with one surety of the like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO, subject to the following conditions:



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- a) the petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
 - b) the petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - c) the petitioner shall provide his mobile number(s) to the Investigating Officer and keep it operational at all times;
 - d) In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/Court concerned by way of an affidavit.
 - e) the petitioner shall also inform the investigation officer about any change in its address or mobile no(s).
 - f) the petitioner shall surrender his passport before the investigating officer and shall not leave the country without prior permission of the trial court.
18. Nothing stated in this order shall tantamount to be an expression in the merits of the case.
19. The application accordingly stands disposed of.

RAVINDER DUDEJA, J.

OCTOBER 29, 2025/na