



2025:DHC:8344



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

% *Date of decision: 18th September, 2025*

+ **BAIL APPLN. 2206/2025**

SURENDER KUMAR GARG
S/O SHRI BIR BHAN GARG
R/O H.No.B-155, M.P. ENCLAVE,
PITAMPURA, SARASWATI VIHAR

.....Petitioner

Through: Mr. Rakesh Chahar and Mr. Naveen
Chauhan, Advocates.

versus

THE STATE OF NCT OF DELHI
THROUGH SHO, PS ASHOK VIHAR

.....Respondent

Through: Mr. Shoaib Haider, APP for the State.
Mr. Vikram Panwar and Mr. Anirudh
Gulati, Advocates for Complainant.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Bail Application under Section 482 Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as "BNSS"*) has been filed on behalf of the Applicant, *Surender Kumar Garg seeking Anticipatory Bail* in case FIR No. 0305/2025 dated 25.05.2025 registered under Sections 420/468 Indian Penal Code, 1860 at P.S. Ashok Vihar.

2. It is submitted that the Anticipatory Bail Application filed before the Ld. ASJ, has been dismissed on 03.06.2025. The Applicant is a law-binding



citizen and is a permanent resident with deep roots in society and there is no apprehension of his fleeing from justice.

3. The *brief facts* of the case are that the Complainant Subhash Jain, filed a Complaint before Ld. CJM alleging that Applicant, a close relative defrauded him of Rs.1.52 crores in cash in April, 2019 for allotment of plot supported by forged documents. Rs.40 lakhs were returned by Umang Garg, son of the Applicant leaving an outstanding balance of Rs.1.12 crores. It is claimed that in support of his assertions, the Complainant had filed self-attested WhatsApp chats and the alleged forged documents with no bank record to substantiate cash transaction.

4. The Application under 156(3) Cr.P.C. filed by the Complainant was allowed by the Ld. CJM and the present FIR was registered. The Revision Petition filed against the Order of the Ld. MM directing registration of the FIR was challenged before the Revisional Court, but the same was dismissed on 22.05.2025.

5. The Bail is sought on the *ground* that the alleged allegations are of cash transaction of Rs.1.52 crores in April, 2019 for which no document, no receipt, bank transfer or written agreement exists and the Complainant relies exclusively on vague oral assertions.

6. In *G. Sagar Suri vs. State of U.P.* (2000) 2 SC 636, the Supreme Court cautioned against the use of criminal law to settle civil scores. The Status Report submitted by the Investigating Officer before the Trial Court, clearly stated that no cognizable offence is made out and the dispute is civil in nature. The Ld. CJM ignored the vital findings given in the Status Report and directed registration of FIR under Section 156 (3) Cr.P.C.

7. The Complaint suffers from an inordinate and an unexplained delay of



over 03 years. The transaction allegedly took place in April, 2019 but the Complaint had been made in 2022 while the FIR has been registered only in 2025. The long silence of the Complainant indicates that the allegations are an afterthought and lack urgency or credibility. Reliance has been placed on M.N. Ojha vs. Alok Kumar Shrivastava (2009) 9 SCC 682 wherein it was held that unexplained delay in filing criminal Complaints without justification, militates against *bona fide* intentions.

8. It is contended that the allegations that the Applicant had personally handed over the forged Allotment letter, is demonstrably false. Personal postal tracking shows that the letter was delivered *via* speed post, a fact borne out by documents on record contradicting the primary foundation of the Complainant's story. These contradictions have been overlooked by the learned CJM. In Rajiv Thapar vs. Madan Lal Kapoor (2013) 3 SCC 330, Supreme Court held that if defence document shows that the case of the Prosecution is patently false, the Court may quash the proceedings at the pre-trial stage.

9. The chat is relied upon by the Complainant is not between him and the Accused but is between the Complainant's son and the Applicant's son Umang Garg and pertains to independent business dealings with no reference to alleged Rs.1.52 crores transaction. The Complainant has misused third party conversation to create false criminal case.

10. In Ravindra Kumar vs. State 2012 VIII AD (Delhi) 403, it was held that WhatsApp messages without proper content and authentication, are unreliable for initiating criminal proceedings.

11. All the evidence relied upon by the Complainant is inadmissible, unverified WhatsApp messages are self-tested screenshots, and the alleged



forged documents are photocopies. No forensic analysis or HSIDC Report has been submitted to support the claim of forgery.

12. Supreme Court in the case of Pepsi Foods Ltd. vs. Special Judicial Magistrate (1998) 5 SCC 749, held that the criminal process cannot be set in motion based on speculative or untested materials and the Courts must intervene to prevent abuse of criminal law. The alleged transaction violates Section 269 of Income Tax Act, which prohibits acceptance of cash exceeding Rs.20,000/- in loans or advances. Even if it is accepted, the transaction is per se illegal and no relief can be claimed out of an unlawful act.

13. In Roshan Lal vs. State of Punjab (AIR 1965 SC 1413), the Supreme Court held that the Courts cannot enforce or legitimize unlawful Agreements. The Applicant faces coercive criminal processes including arrest and detention which is in a fundamentally civil matter, constitutes an abuse of process and violates the Applicant's Constitutional Right under Article 21.

14. Reliance is placed on Satender Kumar Antil vs. CBI wherein it was held that the Criminal Court must uphold the Constitutional trust with responsibility mandated on them by acting akin to a high priest. Reliance is also placed on Gurbaksh Singh Sibbia vs. The State of Punjab (1980) 2 SCC 565 and Arnesh Kumar vs. State of Bihar [2014] 8 SCR 128.

15. It is submitted that the entire dispute revolves around the alleged private transaction between two close relatives where the alleged consideration was made in cash in clear violation of Section 269SS Income Tax Act, making the legality of the transaction itself questionable. No enforceable claim can arise from an unlawful or prohibited transaction.



Reliance is placed on *Y.S. Jagan Mohan Reddy vs. CBI* (2013) 7 SCC 439.

16. It is submitted that the Applicant has an apprehension of arrest by the Police in the FIR which has been registered on frivolous grounds. He has been implicated falsely in this case. *A prayer is made that he may be granted Bail.*

17. ***Status Report has been filed in the court and is taken on record,*** wherein the details of the registration of FIR and the investigations carried out therein have been recorded.

18. It is submitted that the Complainant Subhash Jain alleged that in April, 2019, he purchased a plot measuring 1000 sq. yds. @ Rs.12,000/- per sq. yds. with an additional Rs.32 lakhs as commission to be paid to HSIDC. In all, Rs.1.52 crores in cash were paid to the Applicant. The Complainant never visited the property physically trusting the close relationship with the Applicant. However, during COVID-19, Complainant could not attend to the plot. After COVID-19, he attempted to sell the plot when he came to know that the property did not belong to the Applicant and that he had given him forged and fabricated documents. When the Complainant confronted the Applicant, he admitted the deceit and agreed to return the money after repeated confrontations. Umang Garg, son of the Applicant returned Rs.40 lakhs in cash to the Complainant between 18.11.2022 till 11.05.2023. A total of Rs.1.12 crores remains to be returned.

19. A Letter under Section 94 BNS was served to HSIDC seeking requisite documents and information. As per their Reply, the cited plot No. 76, Sector-23, Phase-III, Mega Food Park, Barhi, was allotted to Mr. Kamaljeet Singh Arora *vide* Letter of Intent No. HSIDC: LOI:MFP:2019:674-676 dated 03.07.2019. It was further intimated that the



Letter submitted was fabricated/manipulated by someone else with an intent to mislead the correct facts. As per the directions of the Apex Court, information regarding the cash transaction of more than Rs.1 crore has already been conveyed to the Income Tax Department.

20. *Three Notices* under Section 35(3) BNSS was served to the Applicant, but he failed to join the investigation. Further Notice under Section 94 BNSS was served to the Complainant regarding the source of money and witness to the said transaction to which he replied that he had taken the money from his former friends. He provided the copy of WhatsApp chat between his son Saurabh Jain and Umang Garg, son of the Applicant, which contained discussion about money and plot.

21. The document i.e. Letter of Intent used in the aforesaid case, has official stamps of HSIDC and signatures of Government Officials which were forged by the Applicant. The cash money and the gadgets used for making forged stamp of HSIDC, is in the custody of the Applicant which is required to be recovered. Custodial interrogation is necessary to crack the syndicate and for recovery of original documents and forged stamps. Investigation is at the initial stage and the Applicant has not been co-operating.

Submissions heard and record perused.

22. It is the case of the Complainant that he had been cheated of Rs.1.52 crores by being presented with forged Letter of Intent in respect of a plot of land which he had purchased from the Complainant. There are serious allegations made of forged documents being prepared by the Applicant and given to the Complainant for alleged sale of plot of land, for which the Complainant had paid Rs.1.52 crores. The payment has been made in cash



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for which the Complainant may be liable to give an explanation or face the consequences under Income Tax Act, but it cannot be overlooked that it is the Letter of Intent having the forged stamp of HSIDC, has been forged by the Applicant. The Letter of Intent has been confirmed to be a forged document by HSIDC.

23. It is not a case of breach of civil transaction of sale of a Plot, or of recovery of money, but involves the serious allegations of forgery and of making a false stamp of HSIDC and forging signatures of the Government Authority.

24. Much has been argued about the cash transaction of Rs.1.52 crores being illegal, but it cannot be overlooked that the transaction of Rs.1.52 crores is corroborated by not only the WhatsApp conversations between the son of the Complainant and the Applicant but also this Letter of Intent. Moreover, the State has asserted that despite service of three Notices, Applicant has not been forthcoming to join investigations. Also, custodial interrogation is sought to unearth the instrumentalities used for effecting the alleged forgery and recover the fake stamp of HSIDC.

25. Therefore, considering the gravity of the offences, no case is made out for grant of Anticipatory Bail.

26. The Bail Application along with pending Applications, is accordingly disposed of.

**NEENA BANSAL KRISHNA
(JUDGE)**

SEPTEMBER 18, 2025

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