



2026:DHC:2382



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Decided on: 20.03.2026

+ BAIL APPLN. 4542/2025 & CRL.M.A. 5672/2026

KAMAL

.....Petitioner

Through: Mr. Faraz Maqbool, Ms. Vismita
Diwan, Ms. Ragini Nagpal,
Ms. Deepshika, Ms. Urvashi,
Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP.
SI Pushpender, P.S. Vijay Vihar.
Mr. Mukesh Kumar, Advocate for
Complainant.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

CRL.M.A. 7493/2026 (for early hearing)

This is an application for early hearing of the bail application.

For the reasons stated therein, the application is allowed, and the bail application is taken up for hearing with the consent of learned counsel for the parties.

The application stands disposed of.

BAIL APPLN. 4542/2025

1. The petitioner seeks grant of regular bail in connection with FIR No. 8/2025 dated 02.01.2025, registered at Police Station Vijay Vihar, District Rohini, New Delhi, under Sections 420/467/468/471/34/120B of the Indian Penal Code, 1860 ["IPC"].

2. I have heard Mr. Faraz Maqbool, learned counsel for the petitioner, Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor, and



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Mr. Mukesh Kumar, learned counsel for the complainant.

3. Mr. Chauhan has handed up a status report in Court, which is taken on record.

4. The case of the prosecution, as it emerges from the status report, is that the complainant and her family members wished to purchase a property, for which they had approached the purported owners, Puneet Arora @ Lakhan and Sushil, who agreed to sell a property bearing Plot No. 1, E-Block, Khasra No. 26/1/1, Begumpur Extension, Delhi. The transaction was finalized for a consideration of Rs. 32,50,000/-, out of which advance payments were made in tranches, and the entire payment was made by 03.05.2024. Documents were also executed in favour of the complainant and her family members. However, it was later alleged that one of the purported owners, Sushil Sharma, had been impersonated by the petitioner herein for the purpose of registration of the documents.

5. The petitioner was arrested on 22.02.2025. The chargesheet was filed against seven accused persons, out of which six are on bail, and the petitioner is the only accused who remains in judicial custody.

6. Mr. Maqbool has drawn my attention to an order of the learned Sessions Court dated 30.07.2025, by which the petitioner was also granted bail, but one of the conditions imposed upon him was that he would furnish a demand draft of Rs.1,50,000/- within seven days of his release. It is submitted that the petitioner applied for extension of time to make the deposit, which was declined by the order of the Sessions Court dated 11.08.2025, as a result of which he was taken into custody again. His subsequent application for bail before the Sessions Court was dismissed by order dated 13.11.2025, again on the ground that he did not



comply with the condition of deposit. Mr. Maqbool draws my attention to the judgment of the Supreme Court in *Gajanan Dattatray Gore v. State of Maharashtra and Others*¹ to submit that grant of bail with a condition of deposit of money, even on an undertaking by the accused, has been deprecated by the Supreme Court.

7. Mr. Chauhan and Mr. Kumar, on the other hand, submit that the petitioner is alleged to be the prime conspirator in the present case, and that the bail originally granted to him was conditional upon deposit of money. Having failed to comply with the condition, it is submitted that he cannot take advantage of the said order.

8. It may first be noted that the chargesheet has already been filed in the present case, and the other accused persons have been enlarged on bail. In the case of the present petitioner as well, bail was granted by the learned Sessions Court *vide* order dated 30.07.2025. The said order notes a submission on behalf of learned counsel for the petitioner that he was ready to pay the amount which had allegedly come to his share, i.e. Rs. 1,50,000/-. The Court thereafter recorded the following findings:

“ **The charge-sheet has already been filed in this case for the offence u/s 420/467/468/471/120-B/34 IPC against the accused persons including the present applicant.** *The cheated amount involved in the present case is Rs.32.50 lacs. Admittedly, if the balance amount is paid by co-accused Deepak, only a sum of Rs.2.50 lacs of the cheated amount shall remained due. During the course of arguments, the Ld. Counsel for the complainant neither denied nor disputed to the submissions of Ld. Defence Counsel that a sum of Rs.1.50 lac approx. has come to the share of the applicant. **The other accused have been granted conditional bail. The conclusion of trial shall take its own time as the charges are yet to be framed. The applicant/accused is in custody for a considerable time.**”²*

¹ 2025 SCC OnLine SC 1571 [hereinafter, “*Gajanan Dattatray*”].

² Emphasis supplied.



9. Bail was, therefore, granted on various conditions, including furnishing of the demand draft as aforesaid. The subsequent order of the Sessions Court dated 11.08.2025, however, records that bail was granted to the petitioner only on the basis of the submission that he would deposit Rs. 1,50,000/-. Time to make the deposit was, therefore, not extended, and he was directed to surrender within 7 days. The petitioner appeared before the Court on the next date fixed, i.e. 09.09.2025.

10. In the latest order of the learned Sessions Court dated 13.11.2025, the Court noted that the petitioner had not complied with the condition of bail earlier granted and, therefore, rejected his application.

11. In my view, the order dated 30.07.2025, passed by the learned Sessions Court extracted above, itself deals with various factors which the Court considers while deciding an application for bail, including the fact that the chargesheet had already been filed, that the co-accused had all been granted conditional bail, that the conclusion of trial will take time, and that the petitioner had been in custody for a considerable period. In addition to these factors, the Court accepted the undertaking made on behalf of the petitioner that he would deposit Rs. 1,50,000/- in Court. The subsequent orders dated 11.08.2025 and 13.11.2025 are, however, predicated only on the fact that he did not make this deposit.

12. The Supreme Court has clearly held that such a deposit ought not to be imposed as a condition for grant of bail. The following observations of the Supreme Court in *Gajanan Dattatray* are relevant:

“15. We have noticed over a period of time that orders of regular bail and anticipatory bail are being passed by different High Courts subject to deposit of some amount.



16. We have come across cases like the one in hand where accused persons have gone to the extent of filing affidavits in the form of undertaking that they would deposit a particular amount within a particular period and then conveniently resile from such undertakings saying it is an onerous condition.

17. In some cases, perhaps the accused may abide by such undertaking, but our experience so far has been that in many cases the accused later would not abide and flout the undertaking. In many cases it would be argued on behalf of the accused that he had never made such a statement and the court on its own had recorded in the order that the accused is ready and willing to deposit a particular amount. At times the entire blame is thrown on the lawyer in making such statement for the purpose of obtaining order of bail or anticipatory bail as the case may be. In such circumstances, the concerned court would be left with no other option but to cancel the bail either at the instance of the State or the original complainant.

18. The case in hand is one in which the appellant on his own free will and volition filed an affidavit in the form of an undertaking before the High Court that he would deposit an amount of Rs. 25,00,000/- but ultimately resiled to do so and the High Court had to cancel the bail. It was too much for the lawyer of the appellant to argue before the High Court that asking his client to deposit Rs. 25,00,000/- was unreasonable. It reflects on the professional ethics.

19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.

20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make.

21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court.

22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again.

23. In the case in hand, so far as the plea for regular bail is concerned, we are not inclined to look into. The appellant has made a mockery of justice. He could be said to have abused the process of law. If at all the High Court wanted to release the appellant on bail, it should have first asked him to deposit the amount within a particular period of time and upon such deposit the appellant could have been released.



24. Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail.³

13. The same view has been taken in the case of *Nagender Kumar v. State NCT of Delhi and Anr.*, wherein the learned Sessions Court had granted bail imposing a condition for furnishing a Fixed Deposit Receipt of the amount of Rs. 25,00,000/-. By an order dated 22.12.2025, this Court had reduced the amount to Rs. 10,00,000/-. The Supreme Court, by its order dated 13.02.2026, passed in Special Leave to Appeal (Crl.) 1239/2026⁴, deleted the aforesaid condition.

14. Having regard to this clear position of law, I am of the view that the petitioner's case must be decided de hors the undertaking furnished by his counsel on 30.07.2025. The other factors which normally govern the grant of bail, as noted above, had already been considered in the said order, which was not challenged by the State or by the complainant on any other ground. There does not appear to be any infirmity in the order which requires this Court to take a different view. The chargesheet has admittedly been filed, and the petitioner has undergone a substantial period of judicial custody now, amounting to almost 11 months. His position is no different from that of the other co-accused, who have all

³ Emphasis supplied.

⁴ *Nagender Kumar v. State NCT of Delhi and Anr.*



been granted bail. The only distinction pointed out by Mr. Chauhan is that the others have deposited the amount as directed by the Court as a condition for bail. That factor, for the reasons stated hereinabove, cannot be held against the petitioner.

15. Mr. Chauhan also submits that the petitioner had not surrendered within time, pursuant to the order dated 11.08.2025, but was arrested when he appeared before the Court on the date next fixed, i.e. 09.09.2025. Although there was evidently some delay in his surrender, I am of the view that it would be disproportionate to deprive him of his liberty on this ground. It is not a case where the petitioner was absconding and had to be arrested, but one where he voluntarily appeared before the learned Sessions Court on the next date of hearing and was arrested from Court.

16. Having regard to the aforesaid factors, it is directed that the petitioner be released on regular bail in connection with FIR No. 8/2025 dated 02.01.2025, registered at Police Station Vijay Vihar, District Rohini, New Delhi, under Sections 420/467/468/471/34/120B of the IPC, subject to furnishing a bail bond in the sum of Rs. 15,000/-, with one surety of the like amount, to the satisfaction of the concerned Trial Court/Duty Magistrate, and further subject to the following conditions:

- a. The petitioner shall appear before the concerned Trial Court on each and every date of hearing fixed.
- b. The petitioner shall ordinarily reside at the address as per prison records, and shall not change the address without informing the concerned Investigating Officer ["IO"]/ Station House Officer ["SHO"].



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- c. The petitioner shall furnish his mobile number to the concerned IO/SHO, and shall ensure that the said mobile number remains operational and switched on at all times. The mobile number shall not be changed, nor shall the phone be switched off, without prior intimation to the IO/SHO.
 - d. The petitioner shall not contact, nor visit, nor offer any inducement, threat, or promise to any of the prosecution witnesses or other persons acquainted with the facts of the case.
 - e. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that would prejudice the proceedings in the pending trial.
 - f. The petitioner shall not commit any offence during the pendency of the proceedings.
17. The bail application, alongwith pending application, stands disposed of in terms of the above.
18. It is clarified that the observations made herein are solely for the purpose of adjudication of the present bail application, and shall not be construed as an expression of opinion on the merits of the case, nor shall they prejudice the rights and contentions of the parties at any stage of the proceedings.
19. A copy of this order be sent to the concerned Jail Superintendent for information and necessary compliance.
20. The dates of hearing already fixed, i.e. 28.03.2026 and 02.04.2026, stand cancelled.

PRATEEK JALAN, J

MARCH 20, 2026/ 'Bhupi/KA' /