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

% ***Reserved on: 09.04.2026***
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\+ BAIL APPLN. 3345/2025

MAHENDER CHAWLA .....Petitioner

Through: Mr. Nishank Tyagi, Mr. Mohd. Mubashir and Mr. Manmeet Verma, Advocates

versus

STATE NCT OF DELHI .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP with SI Lakhan, PS EOW
Mr. Deepak Vashisht, Advocate for Complainants.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

1. By way of the present application, the applicant seeks regular bail in connection with FIR No. 349/2020 dated 01.10.2020, registered at Police Station South Rohini for offences punishable under Sections 420/406/120B of the Indian Penal Code, 1860 ["IPC"].

FACTS:

2. The prosecution has placed a status report dated 11.11.2025 on record, and the facts, as emerging therefrom, are as follows:

a) For nearly two decades prior to the registration of the present FIR, the accused persons, Ms. Renu Chawla and her husband Mr. Mahender Chawla [applicant herein], had been organizing "Committees", inducing approximately 150-200 persons to invest therein on assurances of high returns, while representing such

schemes to be legitimate and risk-free. It is alleged that, in order to lend credibility to these schemes, the accused would display licences and certificates purporting to show that requisite approvals had been obtained.

b) In the period preceding the registration of the FIR, certain transactions relating to immovable properties came to light. In particular, properties bearing Nos. 335 and 334, Pocket-19, Block-E, Sector-03, Rohini were sold on 21.07.2020, followed by the sale of properties bearing Nos. E-308 and 309, Sector-03, Rohini on 25.09.2020. These transactions are stated to have been executed by Ms. Renu Chawla, purportedly in favour of relatives, and are alleged to indicate an attempt to divest assets shortly before the initiation of criminal proceedings.

c) It is in this context that, upon discovering that the accused had also sold their house and were no longer traceable at their known address, a joint complaint was lodged by Ms. Nisha Gulati, Mr. Jatin Arora, and Mr. Harsh Kohli, leading to the registration of the present FIR.

d) Pursuant thereto, the accused were traced and apprehended on 01.10.2020 from H.No. B-3/304, Signature Global Apartment, Gurgaon, Haryana. At the time of their arrest, registers relating to various Committees, lucky draw scheme cards, and other documents connected with the said schemes were seized. The investigation was thereafter transferred to the Economic Offences Wing.

e) During the course of investigation, the bank accounts of the accused were debit-frozen, and multiple additional complaints from similarly placed investors were received and clubbed with the present case. Statements of victims recorded under Section 161 of the Code of Criminal Procedure, 1973 [“CrPC”] indicate that they had been induced to invest, by the accused’s representations of assured returns and promises of high profits.

f) Further enquiries with the Chit Fund Department revealed that neither the accused nor any of their alleged business entities, including M/s Jai Laxmi, M/s Jai Laxmi Sarees, and M/s Jai Laxmi Fancy Emporium, were registered with the competent authority.

g) In view of the aforesaid, offences under Sections 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 [“PCMC Act”] were invoked, and a chargesheet under Sections 406/420/120-B IPC alongwith the said provisions, came to be filed on 27.11.2020.

h) During further investigation, specimen of handwriting and signatures of the accused, as well as of their employees, namely Mr. Albert and Mr. Manish Chauhan, were obtained for forensic examination. The registers maintained for recording transactions of the committee schemes were also sent to the Forensic Science Laboratory [“FSL”]. The FSL report confirmed that entries in the said registers were in the handwriting of the aforesaid employees, who disclosed that they had issued receipts to investors and made entries under the directions of the accused; however, the opinion

with respect to the handwriting of the principal accused, i.e., the applicant and his wife, was found to be inconclusive.

i) Subsequently, a Supplementary Chargesheet dated 31.07.2023 was filed, wherein additional persons, including family members of the accused, as well as the aforesaid employees, were named and placed in Column No. 12. These include Brijesh Chawla and Amit Chawla, who are sons of the main accused, and Priti Chawla and Pooja Sharma, who are their daughters-in-law.

j) Overall, the material collected during investigation indicates that approximately 440 investors were allegedly defrauded to the extent of about Rs. 20 crores, with funds having been collected without any valid licence.

SUBMISSIONS:

3. Mr. Nishank Tyagi, learned counsel for the applicant, advanced the following submissions in support of the application:

a) Mr. Tyagi's principal submission was that the applicant is entitled to the benefit of Section 436A CrPC (corresponding to Section 479 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ["BNSS"]), which provides that an undertrial who has undergone detention for one-half of the maximum prescribed sentence is ordinarily entitled to be released on bail. He submitted that the applicant, aged 67 years, was arrested on 01.10.2020, and has remained in custody for approximately 4 years and 5 months. He further pointed out that the offences under Sections 406 and 420 IPC carry a maximum sentence of 7 years and that, therefore, the applicant has already undergone detention in excess of one-half of the prescribed

sentence.

b) In this context, Mr. Tyagi relied on the judgment of the Supreme Court in *Satender Kumar Antil v. CBI*[1] to submit that, any continued detention beyond the period mentioned in Section 436A CrPC must be exceptional, particularly where the delay is not attributable to the accused. He further relied upon the judgment of the Division Bench of this Court in *Abdul Subhan Qureshi v. State (NCT of Delhi)*[2] to contend that the seriousness of the allegations cannot, by itself, justify the denial of relief under Section 436A CrPC.

c) Mr. Tyagi further submitted that both the chargesheet and the supplementary chargesheet have already been filed, and that the case rests primarily on documentary evidence.

d) Learned counsel additionally submitted that, during the period of incarceration, the applicant had been granted interim bail during the COVID-19 pandemic, from 27.05.2021 to 18.06.2022, and had surrendered within the stipulated time, without any allegation of misuse of liberty.

e) Mr. Tyagi further submitted that the trial has not progressed substantially, inasmuch as charges are yet to be framed and more than 450 witnesses have been cited. He pointed out that a protest petition filed by the complainants remained pending for nearly two years, and came to be rejected only on 02.02.2026. He, accordingly, contended that the delay in the proceedings is not

[1] (2022) 10 SCC 51 [hereinafter, "*Satender Kumar Antil*"].
[2] 2024 SCC OnLine Del 3485 [hereinafter, "*Abdul Subhan Qureshi*"], paragraph 6.

attributable to the applicant.

f) Mr. Tyagi also urged that the ingredients of the alleged offences are not made out in the present case. In this regard, he submitted that the complainants had been investing with the applicant for a period of 25–30 years, which, according to him, negates any intention to cheat at the inception. He further contended that Sections 406 and 420 IPC cannot be invoked together in the facts of the present case.

g) Without prejudice to the aforesaid submissions, Mr. Tyagi contended that certain inconsistencies emerge from the record. In particular, he referred to the case of Ms. Rashmi Shah, who, as per the chargesheet, is stated to have invested a sum of Rs. 8,00,000; however, during her cross-examination as CW-1, she stated that she had not made any statement to the Investigating Officer in connection with the present FIR. He further submitted that there were 5–6 such instances out of the 450 witnesses cited, which, according to him, reflect lacunae in the investigation.

4. *Per contra*, Mr. Yudhvir Singh Chauhan, learned Additional Public Prosecutor, opposed the bail application and made the following submissions:

a) Mr. Chauhan did not dispute that the applicant has undergone a substantial period of custody. However, he contended that this fact, by itself, cannot be treated as determinative for the grant of bail in the facts of the present case. He submitted that the material on record indicates that the applicant had sold off his properties and siphoned funds, which, according to him, reflect a clear intent to

evade the process of law and render the applicant a flight risk.

b) Learned Additional Public Prosecutor further emphasised the nature and scale of the allegations, submitting that the case involves a large-scale fraud affecting multiple victims and, therefore, warrants a cautious approach.

c) Mr. Chauhan further submitted that the delay in the proceedings cannot be attributed to the prosecution. He contended that a substantial part of the delay, to the extent of over one year, is attributable to the applicant. He further submitted that the protest petition filed by the complainants remained pending for nearly two years, which has also contributed to the overall delay in the proceedings.

5. Mr. Deepak Vashisht, learned counsel for the complainants, adopted the submissions advanced on behalf of the State and, in addition, submitted that multiple bail applications filed by the applicant had already been considered and rejected on merits. He submitted that four such applications had been rejected by the learned Sessions Court and one by this Court, while two others had been withdrawn. He further submitted that certain mobile phones are yet to be recovered and, in these circumstances, the possibility of the applicant tampering with evidence cannot be ruled out.

6. In rejoinder, Mr. Tyagi submitted that the allegation of delay was misconceived, as the chargesheet was voluminous and required considerable time for examination. He further submitted that any adjournments sought had been duly supported by medical documents placed on record.

ANALYSIS:

7. The principal contention of the applicant is based on Section 436A CrPC (corresponding to Section 479 BNSS), which reads as follows:

> *"436A.* ***Maximum period for which an undertrial prisoner can be detained.—***
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> ***Where a person has, during the period of investigation, inquiry or trial under this Code*** *of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law)* ***undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:***
>
> ***Provided that the Court may,*** *after hearing the Public Prosecutor* ***and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period*** *or release him on bail instead of the personal bond with or without sureties:*
>
> *Provided further that no such person shall in any case be detained during the period of investigation, inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.*
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> *Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded."*[3]

8. The scope of the aforesaid provision has been considered by the Supreme Court in *Satender Kumar Antil*, wherein the circumstances in which continued detention beyond the prescribed threshold may be justified, have also been delineated. The relevant observations are as follows:

> *"**63.** Section 436-A of the Code has been inserted by Act 25 of 2005. This provision has got a laudable object behind it, particularly from the point of view of granting bail. This provision draws the maximum period for which an undertrial prisoner can be detained. This period has to be reckoned with the custody of the accused*

[3] Emphasis supplied.

during the investigation, inquiry and trial. We have already explained that the word "trial" will have to be given an expanded meaning particularly when an appeal or admission is pending. Thus, in a case where an appeal is pending for a longer time, to bring it under Section 436-A, the period of incarceration in all forms will have to be reckoned, and so also for the revision.

64. *Under this provision, when a person has undergone detention for a period extending to one-half of the maximum period of imprisonment specified for that offence, he shall be released by the court on his personal bond with or without sureties. The word "shall" clearly denotes the mandatory compliance of this provision. We do feel that there is not even a need for a bail application in a case of this nature particularly when the reasons for delay are not attributable against the accused. We are also conscious of the fact that while taking a decision the Public Prosecutor is to be heard, and the court, if it is of the view that there is a need for continued detention longer than one-half of the said period, has to do so. However, such an exercise of power is expected to be undertaken sparingly being an exception to the general rule. Once again, we have to reiterate that "bail is the rule and jail is an exception" coupled with the principle governing the presumption of innocence. We have no doubt in our mind that this provision is a substantive one, facilitating liberty, being the core intendment of Article 21. The only caveat as furnished under the Explanation being the delay in the proceeding caused on account of the accused to be excluded….*

65. *The aforesaid directions issued by this Court if not complied fully, are expected to be complied with in order to prevent the unnecessary incarceration of undertrials, and to uphold the inviolable principle of presumption of innocence until proven guilty.*"

9. The aforesaid decision of the Supreme Court has been followed by a coordinate Bench of this Court in *Nishant Muttreja v. State (NCT of Delhi)*[4], also relied upon by Mr. Tyagi. In that case, bail was granted in view of prolonged incarceration, despite the seriousness of allegations involving a fraud of approximately Rs. 524.16 crores affecting around 6000 investors, with the FIR registered under Sections 420 and 409 IPC.

The Court observed as follows:

> "***24.*** *Admittedly, the chargesheet has since been filed; the trial has not yet begin; there are numerous witnesses to be examined and it would take years to examine them; there is no possibility of dropping of evidence; the petitioners are not at flight risk as their passports have since been surrendered; they were earlier released on interim bail and did not misuse their liberty and* ***have been in judicial custody for the last more than five years; the applicability of Section 436A Cr. P.C.;*** *all evidence being documentary and in custody of Investigating Officer; hence, tempering is ruled out as is already in the sole custody of the State. Further the accused have been giving various schemes, including of upfront payments, though not accepted as they being in jail. Further admittedly, the applicants have already been granted bail in three other FIRs pending adjudication before the District Court, Gautam Buddha Nagar, Greater Noida, Uttar Pradesh, thus, in view of the law discussed above viz. Satender Kumar Antil (supra) Sunil Shakt (supra) and others, as also the facts stated above more specifically in paras 11, 12, 13, 24 above; I admit both the accused to bail on their furnishing personal bond of Rs. 5.00 lacs each with one surety each of like amount to the satisfaction of the learned Trial Court in each of the FIR. The petitioners are directed to keep their mobile location app open at all time. They shall not leave the country without permission of the learned Trial Court and shall not threaten/coerce/influence the complainants/victims in any manner lest it shall be a ground for cancellation of bail.*"[5]

10. In the present case, the applicant has admittedly undergone custody beyond one-half of the maximum sentence prescribed for the alleged offences, thereby attracting the mandate of Section 436A CrPC (corresponding to Section 479 BNSS). The statutory exception carved out in respect of offences punishable with death is a narrow exclusion, to withhold the automatic benefit of release in cases involving the gravest category of offences. This exclusion cannot be expanded beyond its express terms.

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[4] 2022 SCC OnLine Del 4446 [hereinafter, "*Nishant Muttreja*"].
[5] Emphasis supplied.

11. In the present case, the offences alleged are not punishable with death as one of the prescribed penalties and, the applicant consequently falls within the protective ambit of the provision. The legislative object is to prevent undue and prolonged pre-trial incarceration, and once the prescribed threshold is crossed, continued detention would ordinarily be inconsistent with the mandate of the law, unless justified by exceptional circumstances supported by cogent material.

12. Two further considerations have been incorporated in the statute – the proviso enables an exception to be made, if the circumstances so warrant; and the explanation requires consideration of any delay caused by the accused.

13. On the first aspect, the only factor urged by Mr. Chauhan and Mr. Vashisht is the seriousness of the offence. In its recent judgment in *Arvind Dham v. Enforcement Directorate*[6], the Supreme Court has, however, explained that the gravity of the offence must be assessed in conjunction with the term of the prescribed sentence, observing as follows:

> "*15. We have given our thoughtful consideration to the rival submissions and have carefully perused the record. The court while dealing with the prayer for grant of bail has to consider gravity of offence, which has to be ascertained in the facts and circumstances of each case.* ***One of the circumstances to consider the gravity of offences is also the term of sentence i.e., prescribed for the offence, the accused is alleged to have committed****. The court has also to take into account the object of the special Act, the gravity of offence and the attending circumstances along with period of sentence.* ***All economic offences cannot be classified into one group as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the Court to categorize all the offences into one group and***

[6] 2026 SCC OnLine SC 30 [hereinafter, "*Arvind Dham*"].

> ***deny bail on that basis***. *It is well settled that if the State or any prosecuting agency including, the court, concerned has no wherewithal to provide or protect the fundamental right of an accused, to have a speedy trial as enshrined under Article 21 of the Constitution, then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime. The aforesaid proposition was quoted with approval by another two-Judge Bench of this Court and it was held that long period of incarceration for around 17 months and the trial not even having commenced, the appellant in that case has been deprived of his right to speedy trial.*
>
> *xxx* *xxx* *xxx*
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> *18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention into form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated.*"[7]

14. In *Sanjay Chandra v. CBI*[8], the Supreme Court held that the seriousness of the offence, though a relevant consideration, cannot by itself justify denial of bail, and must be weighed alongwith constitutional considerations under Article 21, including the right to a speedy trial and the proportionality of continued incarceration in light of the likely punishment upon conviction. In this context, the Court observed as follows:

> ***"42. When the undertrial prisoners are detained in jail custody to an indefinite period, Article 21 of the Constitution is violated. Every person, detained or arrested, is entitled to speedy trial,*** *the question is: whether the same is possible in the present case.*
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> ***43.*** *There are seventeen accused persons. Statements of witnesses run to several hundred pages and the documents on which reliance*

[7] Emphasis supplied.
[8] (2012) 1 SCC 40 [hereinafter, "*Sanjay Chandra*"].

> *is placed by the prosecution, are voluminous. The trial may take considerable time and it looks to us that the appellants, who are in jail, have to remain in jail longer than the period of detention, had they been convicted. It is not in the interest of justice that the accused should be in jail for an indefinite period.* ***No doubt, the offence alleged against the appellants is a serious one in terms of alleged huge loss to the State exchequer, that, by itself, should not deter us from enlarging the appellants on bail when there is no serious contention of the respondent that the accused, if released on bail, would interfere with the trial or tamper with evidence. We do not see any good reason to detain the accused in custody, that too, after the completion of the investigation and filing of the charge-sheet****."*[9]

15. The objections raised by the prosecution in the present matter fail to disclose any such compelling or exceptional circumstances, so as to warrant denial of the statutory benefit to the applicant.

16. Insofar as the delay in the proceedings is concerned, I am of the view that the delay cannot, *prima facie*, be attributed to the applicant. Mr. Vashisht submitted that adjournment was taken by the accused for the purposes of examining the chargesheet, and documents filed therewith. However, having regard to the volume of documents, I am of the view that grant of time for this purpose, cannot be regarded as unjustified. In fact, a significant portion of the delay arose from the pendency of the protest petition filed by the complainants, which remained under consideration for nearly two years, and was rejected only on 02.02.2026. This intervening period reflects procedural delay inherent to the adjudication of the protest petition and not any dilatory conduct on the part of the applicant.

17. The apprehensions of the prosecution with regard to the applicant being a flight risk, as well as the apprehension of Mr. Vashisht regarding

[9] Emphasis supplied.

tampering with evidence, are not supported by any concrete material and therefore remain purely speculative in nature. The sale of properties by the applicant's wife, particularly at a time prior to registration of the FIR, does not commend to me as a ground to deny bail to the applicant, in the face of an express statutory provision.

18. In the present case, the investigation stands substantially concluded and the prosecution case rests primarily on documentary evidence already in the custody of the investigating agency. In *Padam Chand Jain v. Enforcement Directorate*[10], it was observed that where the material evidence is predominantly documentary in nature and already seized by the prosecution, the possibility of tampering with such evidence stands considerably diminished.

19. The said principle has been reiterated in the recent decision of the Supreme Court in *Arvind Dham*, wherein it has been held that continued incarceration in such circumstances, particularly where the evidence is primarily documentary and already secured with the prosecution, coupled with delay in commencement of trial, would be contrary to the right to speedy trial guaranteed under Article 21 of the Constitution.

20. The fact that the applicant has been in custody for four and half years, and charges are yet to be framed, points to the likelihood of a long trial, particularly as the prosecution proposes to call over 450 witnesses.

21. Mr. Vashisht's reliance on the rejection of the applicant's earlier bail applications is, in my view, misplaced. In the present case, the applicant relies on a specific statutory provision which comes into operation upon the period of incarceration exceeding a stipulated portion

of the maximum prescribed sentence. The earlier orders were passed at a stage when this statutory entitlement had not accrued and, therefore, cannot govern the adjudication of the present application.

CONCLUSION:

22. In view of the above discussion, I am of the view that the applicant is entitled to the concession of bail, under Section 436A CrPC (corresponding to Section 479 BNSS). It is, therefore, directed that the applicant be released on regular bail in connection with FIR No. 349/2020 dated 01.10.2020, registered at Police Station South Rohini for offences punishable under Sections 420/406/120B of IPC, subject to furnishing a bail bond in the sum of Rs. 5,00,000/- with one surety of the like amount, to the satisfaction of the Trial Court/Duty Magistrate, and subject to the following conditions:

a) The applicant shall appear before the Trial Court on each and every date of hearing;

b) The applicant shall furnish his permanent address to the concerned Investigating Officer ["IO"]/Station House Officer ["SHO"], as well as the address at which he is residing during the pendency of the case, and shall, in the event of any change in his residential address, promptly intimate the IO/SHO and file an affidavit before the Trial Court;

c) The applicant shall provide his mobile number to the concerned IO/SHO, which shall be kept in working condition at all times. The mobile number shall not be switched off or changed without prior intimation to the IO during the pendency of the trial;

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[10] 2025 SCC OnLine SC 1291 [paragraph 7].

d) The applicant shall not, directly or indirectly, contact, visit, or offer any inducement, threat, or promise to any prosecution witnesses or other persons acquainted with the facts of the case;

e) The applicant shall not, directly or indirectly, tamper with evidence or engage in any act or omission that could prejudice the proceedings of the pending trial;

f) The applicant shall surrender his passport before the Trial Court, and shall not leave the country without prior permission of the Trial Court;

g) The applicant shall not commit any offence during the period of his release.

23. The bail application is disposed of in terms of the above.

24. It is clarified that any observations made in the present judgment are solely for the purpose of deciding the present bail application, and shall neither influence the trial proceedings, nor be construed as an expression of opinion on the merits of the case.

25. Copy of the order be communicated to the concerned Jail Superintendent electronically for information and necessary compliance.

PRATEEK JALAN, J

APRIL 30, 2026
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