



2025:DHC:11126



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

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**Reserved on: 13.11.2025****Pronounced on: 10.12.2025**+ **BAIL APPLN. 171/2025****ANIL MITHAS**

.....Petitioner

Through: **Mr. Manoj Singh and Mr.  
Abhay Singh, Adv.**

versus

**STATE(NCT OF DELHI)**

.....Respondent

Through: **Mr. Aashneet Singh, APP with  
SI Amit PS EOW.****Mr. Mohd. Faris, Adv. for the  
victim.****CORAM:****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****RAVINDER DUDEJA, J.**

1. The present bail application is filed by the petitioner under Section 482 read with Section 528 BNSS [previously Section 438 read with Section 482 Cr.P.C.] seeking anticipatory bail in case FIR No. 94/2020 dated 11.08.2020 registered under Sections 409/420/120-B of IPC at PS Economic Offences Wing [EOW].

**Factual Matrix**

2. As per the allegations recorded in FIR, Mr. Dilip Kaul [**“the complainant”**] alleged that he had booked a residential flat in the project titled *“The Aranya”* at Sector-119, Noida, being developed by M/s Unnati Fortune Holdings Pvt. Ltd. [**“UFHL”**]. It is alleged that the project was marketed by its Directors, including the present



petitioner, who represented that Phase-III of the project consisting of several towers was ready for possession within the stipulated period.

3. The complainant, acting upon such representations, deposited substantial amounts towards the sale consideration, in some cases exceeding 80-90%, under the Builder-Buyer Agreement executed with UFHL. The complainant alleges that similar representations were made to several other buyers, who too deposited large sums of money between 2013-2014.

4. It is alleged that despite receiving such substantial consideration from the complainant and other buyers, the accused persons, including the petitioner, failed to do construction of the towers in Phase-III beyond the stage of the basement and part of the first floor. It is alleged that no meaningful progress was made thereafter, and repeated assurances of timely completion were proved false.

5. It is also alleged that the petitioner and other Directors diverted the funds collected from homebuyers for purposes unrelated to the construction of the project and did not deposit mandatory lease rent and other dues payable to the NOIDA Authority. The non-payment allegedly resulted in NOIDA Authority issuing repeated demands and initiating action against the company.

6. The complainant asserts that despite having collected nearly the entire sale consideration from him and other similarly placed buyers, the accused persons neither completed construction nor refunded the amounts. Instead, it is alleged, they continued to induce further



investments by giving false assurances and concealing the true financial condition of the company.

7. The FIR also alleges that the complainant approached the company repeatedly between 2017-2020 seeking possession or refund, but the accused persons, including the petitioner, avoided meeting him, shifted responsibility, and failed to provide any credible timeline for completion. According to the FIR, the complainant later discovered that numerous other homebuyers had faced identical problems.

8. Being aggrieved, the complainant filed a complaint, which was later joined by 12 additional homebuyers, who levelled similar allegations of cheating, breach of trust, and misappropriation of funds. They claimed that their units were neither delivered nor refunded, and construction had virtually stopped despite substantial payment being taken.

9. Subsequently on these allegations, FIR No. 94/2020 was registered, and investigation was initiated by the Economic Offences Wing to ascertain the financial conduct of the accused persons, the utilisation of homebuyers' funds, and the reasons for non-completion of the project.

### **Arguments on behalf of the Petitioner**

10. Ld. Senior counsel for the petitioner contended that he resigned from the Board on 08.02.2014 and thereafter had no role in UFHL's decisions regarding Phase-III. He argued that the bookings of



complainants were made after his resignation and hence no criminal intent or entrustment can be attributed to him.

11. It was urged that once CIRP commenced and IRP/RP assumed control, all acts relating to possession, allotment, settlement and completion of project were undertaken by the RP, not the petitioner. The RP's letter dated 25.09.2024 and the status report are relied upon to argue that three proposals were given to homebuyers under the Resolution Plan and all 12 complainants ultimately accepted settlement and have either taken possession or sold/rented their allotted units.

12. Ld. Counsel submitted that in cases of identical allegations in FIR Nos. 63/2017 and 36/2019, the petitioner has either already been granted anticipatory bail or proceedings have been stayed. Reference was made to ***Bijender v. State of Haryana (SLP (Crl) 1079/2024)*** and ***Hemant Kumar v. State of Haryana (SLP (Crl) 232/2024)*** to argue that an accused cannot be denied bail merely because he does not make self-incriminatory statements while joining investigation.

13. The petitioner submits that certain dues are pending with the NOIDA Authority, but it is the IRP/RP who was obligated to pay the same from the company's assets, and therefore the petitioner cannot be faulted. According to him, the complainants' grievance having been settled, no purpose would be served by custodial interrogation. It is prayed that anticipatory bail be granted to the petitioner.



### **Arguments on behalf of the State**

14. *Per contra*, Ld. APP for the respondent/State vehemently opposed the grant of bail. The Ld. APP submitted that three FIRs remain pending against the petitioner before EOW. Though the petitioner asserts settlements, the IO has pointed out inconsistencies in the petitioner's stand and in the documents relied upon.

15. It is emphasised that the petitioner collected major portions of sale consideration (up to 90%) and yet failed to complete construction or hand over possession. The petitioner did not deposit lease rent with NOIDA Authority, prompting it to make a complaint. Despite resigning as Director, he continued to draw salary, demonstrating his continuing control over the affairs of UFHL.

16. The prosecution disputed the petitioner's narrative that the IRP effectuated all settlements. It was argued that no sale deeds were executed, bank loans (including an ICICI loan) remained outstanding against certain flats allegedly "handed over", and the petitioner has not produced any document to show that the flats were legitimately transferred to any third party. In the case of Virender Kumar, possession was taken and the unit was rented out, but this does not establish that the petitioner's liabilities have ceased. Similarly, for complainant Dalip Kaul, though possession was handed over and the property rented out, he does not possess any document showing legitimate title transfer. On the other hand, another complainant Narender Kaul possesses certain documentation showing irregularities which require custodial interrogation.



17. The State contended that if IRP was in full control, it is unclear how settlements and agreements were executed with the petitioner, which itself show his continuing influence over the company. The petitioner's conduct raises doubts about the genuineness of the alleged settlements.

18. It was argued that the petitioner is financially affluent and has the capacity to influence witnesses. He is currently in custody in an ED case, reinforcing the apprehension that he has engaged in financial misappropriation before and thus requiring detailed custodial interrogation in the present FIR. It is prayed that bail may not be granted to the petitioner.

### **Court Reasoning and Analysis**

19. The Court has heard the arguments advanced by the parties and has perused the material on record. The essence of the accusations is not a mere civil breach or post-CIRP commercial dispute. Rather, the allegations point to systematic inducement, collection of massive funds, non-construction, non-payment of statutory dues, and a pattern which is replicated across several FIRs filed before EOW.

20. On the basis of investigation conducted, it has come on record that petitioner, Madhu Mithas and Santosh Kumar Mithas were the authorized signatories in the bank account of the company and also major shareholders of the company. All day to day work was done in the company on the directions of the petitioner. The petitioner's contention is that he resigned in the year 2014. However, the status report reveals that the cash amount of Rs. 7 crores was withdrawn



since 2015 to 2016 from the account of the company and Rs. 2.24 crores was transferred in the personal account of the petitioner even after he resigned from the company. The status report confirms that petitioner and other co-accused persons transferred Rs. 46.26 crores in their other companies. Thus, petitioner misused/diverted the funds of the investors for his personal use and to his other companies and due to lack of funds, the project could not be completed.

21. Even though, the petitioner officially resigned from the directorship of UFHL in 2014, his shareholding of 89% remained intact and he continued to be the authorized signatory in the bank account of the company and is thus the main person responsible for the day to day working of the company.

22. The argument of the petitioner that CIRP and the RP's actions absolve him is misconceived. The initiation of CIRP in 2019 neither retrospectively legitimises the acts preceding it nor extinguishes criminal liability.

23. The petitioner claims that the IRP was in exclusive charge but in contradiction to his own statement, he claims that the settlements were executed by the petitioner. This contradiction requires investigation. Certain units allegedly "handed over" still carry outstanding bank loans and were never transferred by registered sale deeds. The Court cannot, at this stage, hold that the alleged settlements are genuine or comprehensive.

24. The considerations governing the grant of anticipatory bail are materially different than those to be considered while deciding the



application for grant of regular bail, as in the latter case, the accused person is already under custody.

25. It is a settled law that the power to grant a pre-arrest bail/anticipatory bail under Section 438 of the Cr.P.C. is extraordinary in nature and is to be exercised sparingly. Thus, anticipatory bail cannot be granted in a routine manner. The Hon'ble Supreme Court, in the case of **State of A.P. v. Bimal Krishna Kundu, (1997) 8 SCC 104** held as under:

*“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)*

*“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”*

*9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)*

*“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”*

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*12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are*





*equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”*

26. The gravamen of the complaint discloses conduct involving inducement, collection of substantial sums from multiple homebuyers, non-completion of the project, and failure to discharge its obligations such as payment of lease rent to the NOIDA Authority. Economic offences of this nature, as repeatedly emphasised by the Hon’ble Supreme Court, affect the financial fabric of society and must be approached with the seriousness they warrant. In ***Nimmagadda Prasad v. CBI, (2013) 7 SCC 466***, the Supreme Court observed that such offences, involving deep-rooted conspiracies and financial loss, have far-reaching implications for society and must be approached with a different yardstick when considering bail. In ***Y.S. Jagan Mohan Reddy v. CBI, (2013) 7 SCC 439***, it was held that economic offences constitute a class apart and grant of bail should be exercised with great circumspection.

27. The submission that complaints are limited to 12 homebuyers, and not the alleged 300 homebuyers, does not dilute the seriousness of the accusations as the amounts involved are substantial. The petitioner is stated to be already in custody in an ED case. The apprehension



expressed by the State that the petitioner, being financially and socially influential, may tamper with evidence or influence witnesses, cannot be said to be unfounded.

28. As per status report, notices under Section 41-A Cr. PC were sent to the petitioner but he did not join the investigation and just sent the reply that he resigned from the company and was not involved in day to day activities of the company. Thus, he did not render due assistance in the investigation.

29. The Supreme Court in *State Vs. Anil Sharma, (1997) 7 SCC 187* held that it is a well-established legal principle that custodial interrogation is significantly more effective for eliciting information compared to questioning an accused who is protected by an anticipatory bail order under Section 438 Cr.P.C (Section 482 BNSS). Granting anticipatory bail to the petitioner at this stage would undeniably obstruct the course of further investigation. Such relief cannot be granted as a matter of routine, especially when it may be misused by the petitioner as a protective shield against further investigation.

30. Having regard to the totality of the circumstances, including the magnitude of funds involved, the nature of allegations, the inconsistencies surrounding the purported settlements, the petitioner's continuing financial association with the company even after his resignation, and the pendency of multiple complaints reflecting a similar modus operandi, this Court finds that custodial interrogation is indispensable for an effective and fair investigation.



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31. In the light of the cumulative circumstances, this Court is of the view that the petitioner is not entitled to seek the benefit of pre-arrest bail/anticipatory bail.

32. Accordingly, the present application is dismissed.

33. Nothing stated in this judgment shall tantamount to be an expression of opinion on the merits of the case and any observation(s) made are only for the purpose of deciding the present bail application.

**RAVINDER DUDEJA, J.**

**10<sup>th</sup> December, 2025/AK**

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