
(2025) 12 DEL CK 0014

Delhi HC

Case No: Bail Application No. 2837 Of 2025, Criminal Miscellaneous Application Nos.
22102, 33915 Of 2025

Mohd. Rashid

APPELLANT

Vs

State Of Nct Of Delhi & Anr.

RESPONDENT

Date of Decision: Dec. 3, 2025

Acts Referred:

- Indian Penal Code, 1860- Section 34, 420

Hon'ble Judges: Amit Mahajan, J

Bench: Single Bench

Advocate: Javed Ahmad, Aakriti Aditya, Ritesh Kumar Bahri, Divya Yadav, Lalit Luthra,
Sangita B

Final Decision: Allowed

Judgement

Amit Mahajan, J

1. The present application is filed seeking pre-arrest bail in FIR No. 42/2025 dated 15.01.2025, registered at Police Station Chandni Mahal, for the offence under Sections 420/34 of the Indian Penal Code, 1860.
2. The FIR was registered pursuant to a complaint given by the complainant that he had entered into an Agreement to Sell dated 20.08.2019 with the applicant for purchasing one flat, and pursuant to the same, he had paid a sum of ₹6,00,000/- in cash to the applicant. It is alleged that the flat was never offered to him and the money was also not returned.
3. The applicant is stated to be a builder who had entered into a Memorandum of Understanding with the owners of the subject property for construction of the flat and the subsequent sale.
4. By order dated 31.07.2025, this Court had granted interim protection to the applicant noting the submission made on behalf of the applicant that he had always been willing to refund the amount taken from the complainant, and he had also refunded a sum of ₹1,00,000/- to the complainant. It was also noted that the applicant was willing to deposit the remaining amount of ₹5,00,000/- with this Court to show his bona fides.
5. Subsequently, on 10.11.2025, this Court noted the submission of the applicant's counsel that the applicant had already deposited a sum of ₹4,00,000/- and the balance amount of ₹1,00,000/- would be deposited within a period of two weeks thereafter.

6. Taking note of the no objection tendered by the applicant, this Court by order dated 26.11.2025 directed the Registrar General of this Court to release the deposited amount of ₹4,00,000/- in favour of the complainant.

7. Today, it is submitted that the balance amount of ₹1,00,000/- has also been deposited with the Registrar General of this Court.

8. The learned counsel for the complainant states that the applicant has produced a forged receipt of ₹1,00,000/- and the said amount was never refunded by the applicant to the complainant.

9. While the veracity of the allegations cannot be ascertained at this stage, undisputedly, the allegations against the applicant are essentially in regard to him having cheated the complainant of a sum of Rs.6,00,000/-.

10. Although the complainant has asserted that the initial ₹1,00,000/- has not been refunded by the applicant, it cannot be ignored that criminal proceedings are not meant for the purpose of recovery. Moreover, the applicant has maintained that he is willing to refund the money and he has also deposited a significant portion of the allegedly cheated amount (that is, a sum of ₹5,00,000/-) before the Registrar General of this Court to show his bona fides.

11. It is also important to note that the applicant was granted interim protection by this Court by order dated 31.07.2025 and he has since joined the investigation. It is not in doubt that order for grant of bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation and is not likely to abscond, the custodial interrogation should be avoided.

12. In view of the above, this Court is of the opinion that the custodial interrogation of the applicant is not required in the present case. The applicant, in the event of arrest, is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation, if required, as and when directed by the IO;
- b. The applicant shall not leave the country without the prior permission of the learned Trial Court;
- c. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
- f. The applicant shall give his mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times.

13. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

14. It is clarified that the observations made in the present order are only for the purpose of considering the present application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

15. The learned counsel for the applicant has further submitted that the applicant has no objection if the sum of ₹1,00,000/- deposited with the Registrar General of this Court is also released in favour of the complainant.

16. Considering the aforesaid, the Registry of this Court is directed to release the sum of ₹1,00,000/- in favour of the complainant on the complainant furnishing an undertaking in the form of an affidavit that in case the applicant succeeds in the present case, the entire amount of ₹5,00,000/- would be refunded forthwith to the applicant.

17. The bail application is allowed in the aforementioned terms.

