2025:DHC:5548

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

% *Judgment reserved on: 09.07.2025*
*Judgment pronounced on: 14.07.2025*

\+ **BAIL APPLN. 3788/2022 & CRL.M.A. 22040/2023**

UMESH VERMA .....Petitioner

Through: Mr. Raj Shekhar Rao, Sr. Advocate with Mr. Tarun Gaur, Ms. Vishakha Gupta and Mr. Shubham Arora, Advocates.

versus

STATE .....Respondent

Through: Mr. Ritesh Kumar Bahri, APP for State with Ms. Divya Yadav, Advocate with SI Pankaj, EOW.
Mr. Archit Kaushik, Advocate for Complainant.

**CORAM:**
**HON'BLE MR. JUSTICE GIRISH KATHPALIA**

**J U D G M E N T**

**GIRISH KATHPALIA, J.:**

1. The accused/applicant seeks regular bail in case FIR No. 132/2020 of PS Economic Offences Wing (EOW) for offences under Section 406/409/420/467/120B IPC. Earlier, the accused/applicant had filed Bail Application No.3500/2021 for grant of regular bail in the same case FIR, but that application was dismissed by a coordinate bench of this court vide judgment dated 26.10.2021.

1.1 The present bail application was filed way back in the year 2022 and came up before this Bench for the first time on 17.04.2025 and on that day, both sides were called upon on address arguments on merits, but they requested and were allowed adjournment because till that day, before different predecessor benches, the matter kept getting adjourned for compromise and the counsel did not expect that they would be called upon to address arguments. On the very next date 09.07.2025, final arguments were advanced by learned Senior Counsel on behalf of the accused/applicant and learned Additional Public Prosecutor on behalf of State, assisted by learned counsel for the complainant *de facto*. During pendency of this bail application, multiple status reports were filed on behalf of State dealing with the progress related to the settlement efforts between the accused/applicant and multiple victims of the offence.

2. Broadly speaking, the circumstances relevant for the present purposes are that one Joginder Kumar lodged a complaint with the DCP, EOW against a crypto currency company namely Pluto Exchange and its owners including the present accused/applicant, alleging as follows. The accused/applicant and the remaining accused persons were engaged in the business of gold and diamond in Karol Bagh, and they told him about their Dubai Company under the name Bharat Umesh General Trading LLC, Dubai, dealing in crypto currency. The accused persons allured him to invest in crypto currency, assuring returns up to 20% to 30% per month. The accused persons also told him that they were giving high returns to their clients and if he brought more clients, he would be paid commission as well. After

getting himself registered at the websites namely *www.plutoexchange.com* and *www.f2poolmining.com*, the complainant *de facto*, invested a sum of Rs.5,00,000/- in the company of the accused persons. On receiving no returns after one month, the complainant *de facto* visited office of the accused persons, but was told that due to fall in rates of bitcoin and seizure of account they were unable to return the amount through bank, so he should wait for a few months. On not receiving any money for long time, the complainant *de facto* visited office of the accused persons, but found that the accused persons had shifted their office to Dubai. Despite repeated efforts, the complainant *de facto* could not contact the accused/applicant over phone, nor did he receive his money. Later, the complainant *de facto* came to know that a number of persons had invested in the company of the accused persons, money to the tune of about Rs.50,00,00,000/- in the name of crypto currency business. The said complaint of the complainant *de facto* was registered by the EOW and investigation commenced.

3. The accused/applicant was arrested on 30.12.2020 and after dismissal of his bail application from the Court of Sessions, he filed the present bail application before this High Court on 16.12.2022.

3.1 Across the said period and even thereafter, the investigation continued, unfolding the number of similarly defrauded investors.

3.2 On 05.04.2023, before the predecessor bench, the number of such defrauded investors was disclosed to be 48, and it was informed that 22 investors had settled the matters before the Mediation Centre, Delhi High Court. Going by the assurance of the accused/applicant to settle accounts of

all such investors, the predecessor bench vide order dated 05.04.2023 directed release of the accused/applicant on interim bail till next date subject to certain conditions. That interim protection from arrest continued on date to date basis before different predecessor benches and the matter kept getting adjourned across piecemeal settlements of the accounts of those victims before the Mediation Centre, Delhi High Court. Towards settlement, the accused/applicant continued to pay dues of the victims by way of post-dated cheques and/or cash.

3.3 On 20.05.2024, three of the victims informed the predecessor bench that without any settlement with them, an amount of Rs.1,00,000/- had been deposited in their account without their knowledge.

3.4 On 07.10.2024, the status presented before the predecessor bench was that out of 48 victims, only 07 confirmed the settlement, while 33 denied and 08 were waiting.

3.5 Simultaneously, the matter remained in process before the Mediation Centre, Delhi High Court and on multiple directions of the predecessor benches, multiple status reports were filed by the State.

3.6 On 29.01.2025, the prosecution informed the predecessor bench that in addition to 48 known victims, 11 more victims had filed their complaints, so the predecessor bench directed the IO to supply details of those 11 additional victims.

3.7 On 06.03.2025, the predecessor bench named an arbitrator and even prepared elaborate plan of settlement between the parties after minutely examining the settlement reports.

3.8 It is thereafter that on 17.04.2025, the matter came to this bench for the first time. Order dated 17.04.2025 is extracted below:

> *"1. The petitioner has sought quashing of FIR in one of these petitions and grant of regular bail in the other petition. The FIR pertains to offences under Section 420/406/409 IPC.*
> *2. The matters have come up before me for the first time.*
> *3. It appears that before the predecessor benches, the matters were repeatedly being listed for piecemeal settlements with the allegedly defrauded victims in groups. The alleged victim groups were being referred to mediation centre also, followed by fresh referrals of the disputes to the mediator.*
> *4. In my considered view, the courts dealing with bail applications and petitions for quashing the FIR are not forums of money recovery, that too in piecemeal settlements with different groups of the alleged victims.*
> *5. Therefore, both sides are directed to address arguments on merits. Learned counsel for petitioner seeks adjournment on the ground that the learned Senior Counsel is not available. Keeping in mind the above circumstances where the matter was being listed repeatedly for settlement efforts, fairness expects grant of the adjournment request.*
> *6. List for arguments on 09.07.2025.*
> *7. Interim orders to continue till next date of hearing."*

Ultimately, on 09.07.2025 final arguments on merits were concluded.

4. During arguments, learned senior counsel for the accused/applicant took me through previous record and contended that there is no *mens rea*, insofar as when the accused/applicant started the business in crypto currency, there was nothing in law to prohibit the same and it is only later on that the government suddenly derecognized crypto currency, because of which the accused/applicant fell in financial problems; and despite that, the accused/applicant settled claims of almost all investors, which shows his *bona fide* and entitles him the relief of regular bail. It was argued that the

accused/applicant is not a flight risk and never misused the liberty of interim bail granted by the predecessor benches. Learned senior counsel for accused/ applicant submitted that the accused/applicant genuinely intends to clear all claims of all the investors.

5. On the other hand, learned prosecutor strongly opposed the bail application, contending that the accused/applicant has deep pockets and if granted bail, he would influence the witnesses and tamper with the evidence. Learned prosecutor also argued that mediation proceedings were exploited by the accused/applicant as a tool to stay on interim bail endlessly, without any serious intentions to resolve claims of the defrauded investors. Learned prosecutor also took me through record in support of his contentions that the accused/applicant is certainly a flight risk and if granted bail, would flee the country. As regards the settlements in question, learned prosecutor placed on record statements of 38 victims alleging that they had not received any amount or the complete amount invested by them.

6. Learned counsel for complainant *de facto* while assisting the learned prosecutor took me through record to show that even subsequent to the derecognition of crypto currency, the accused/applicant continued to accept investments in the same, and that, according to learned counsel for complainant *de facto*, reflects dishonest intention on the part of the accused/applicant. Learned counsel for complainant *de facto* also pointed out that the accused/applicant is involved in 13 more cases of similar nature.

7. To begin with, my decision to switch over from the said piecemeal settlement proceedings to adjudication of this bail application on merits is fortified by plethora of judicial pronouncements to the effect that the bail courts are not forum for recovery of money; and that the economic offences constitute a class apart, so need to be visited with a different approach in matters of bail.

7.1 In the case of ***Apruva Kirti Mehta vs State of Maharashtra***, 2025 SCC OnLine SC 336, the Supreme Court held thus:

> "8. *That apart, the direction for payment was in the teeth of a plethora of decisions of this Court. We can profitably refer to a few of them, viz. Ramesh Kumar vs. State (NCT of Delhi); St. George Dsouza vs. State (NCT of Delhi) and Dilip Singh vs. State of M.P. & Anr. Having regard to the principles of law laid down in the said decisions, inter alia, to the effect that the courts, exercising jurisdiction to grant bail/pre-arrest bail, are not expected to act as recovery agents for realization of dues of the complainant from the accused, the High Court should have independently applied its mind and arrived at a conclusion as to whether a case for grant of bail, on settled parameters, had been made out or not irrespective of whatever statement was made on behalf of the appellant before the Sessions Judge*."

7.2 While elaborately examining the legality of the conditions that can be imposed for granting bail, the Supreme Court in the case of ***Ramesh Kumar vs State of NCT of Delhi,*** 2023 SCC OnLine SC 766, held thus:

> *"1. A disquieting trend emerging over the years which has gained pace in recent times necessitates this opinion. It has been found by us in multiple cases in the past several months that upon First Information Reports being lodged inter alia under section 420 of the Indian Penal Code, 1860 ("the IPC", hereafter), judicial proceedings initiated by persons, accused of cheating, to obtain orders under Section 438 of the Code of Criminal Procedure, 1973 ("the CrPC", hereafter) are unwittingly being transformed into processes for recovery of the quantum of money allegedly cheated and the courts driven to impose conditions for deposit/payment as pre-requisite for grant of pre-arrest bail. The present case is no different from the others and* ***it is considered***

***appropriate to remind the high courts and the sessions courts not to be unduly swayed by submissions advanced by counsel on behalf of the accused in the nature of undertakings to keep in deposit/repay any amount while seeking bail under section 438 of the CrPC and incorporating a condition in that behalf for deposit/payment as a pre-requisite for grant of bail****.*

....

....

*26. We may, however, not be understood to have laid down the law that in no case should willingness to make payment/deposit by the accused be considered before grant of an order for bail.* ***In exceptional cases such as where an allegation of misappropriation of public money by the accused is levelled and the accused while seeking indulgence of the court to have his liberty secured/restored volunteers to account for the whole or any part of the public money allegedly misappropriated by him, it would be open to the concerned court to consider whether in the larger public interest the money misappropriated should be allowed to be deposited before the application for anticipatory bail/bail is taken up for final consideration.*** *After all, no court should be averse to putting public money back in the system if the situation is conducive therefor. We are minded to think that this approach would be in the larger interest of the community.* ***However, such an approach would not be warranted in cases of private disputes where private parties complain of their money being involved in the offence of cheating****."*

(*emphasis supplied*)

7.3 In the case of ***Bimla Tiwari vs State of Bihar,*** 2023 SCC OnLine SC 51, the Supreme Court held thus:

*"9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings but what has been noticed in the present case carries the peculiarities of its own.*

*10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or*

*regular bail could be granted irrespective of any payment or any offer of payment.*

*11. We would further emphasize that, ordinarily, there is no justification in adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings."*

7.4 Recently, even this bench in the case of ***Mohit Singh Raghav vs Government of NCT at New Delhi*** {Bail Application No. 662/2024, decided on 05.05.2025}, reiterated that the bail court is not a forum for recovery of money. It is in view of above legal position that when this bail application came up before me for the first time on 17.04.2025 that both sides were directed to address on merits instead of getting the matter endlessly adjourned in the name of settling the monetary claims of the defrauded investors.

8. As regards the settlement of claims before the predecessor benches across the period of more than two years, contention of learned senior counsel for accused/applicant that the same reflects *bona fide* of the accused/applicant has been examined by me.

8.1 It appears from record that in the name of settlement of claims of the victims, the accused/applicant executed settlement agreements with some of them before the Mediation Centre, but did not fully comply with the same. As mentioned above, out of 61, as many as 38 defrauded investors (*from various States across the country*) have given their signed statements or electronic messages to the IO that they either did not receive any money or received only a small part thereof.

8.2 It seems that the mediator(s) also simply recorded the Mediation Settlements and concluded the mediations without ensuring that the money was actually returned to the victims. I find substance in the argument of learned prosecutor that the accused/applicant used the mediation process as a tool to create artefact of *bona fide*, which led to his interim bail and thereafter he continued to ensure that the settlement process goes endlessly and he evergreens the interim protection.

9. Then comes the next argument of *bona fide* that when the accused/applicant started business of crypto currency there was no illegality therein, so no dishonest intention can be attributed to him. In the judgment dated 26.10.2021 of the coordinate bench {Bail Application No.3500/2021}, this argument was examined, but discarded thus:

> "*25. Without any observations on the merits or demerits of the trial that would take place, in as much as, the charge sheet has already been filed, the factum that the applicant indulged in the trade of crypto currency despite public notices dated 24.12.2013, 01.02.2017, 05.12.2017 issued by the RBI as also issued on 06.04.2018 cautioning users/holders and traders of virtual currency including bit coins regarding various risks associated in dealing with such virtual currencies with regulated entities already providing such services having been called upon to exit the relationship within three months from the date of the circular dated 06.04.2018 bearing DBR.No.BP.BC.104/08.13.102/2017-18, copy of which is annexed as Annexure-F to the present application, coupled also with the aspect that in view of the associated risks, it was decided by the RBI with immediate effect vide circular dated 06.04.2018 that the entities regulated by the RBI would not deal in VCs or provide services for facilitating any person or entity in dealing with or settling VCs and that such services included maintaining accounts, registering, trading, settling, clearing, giving loans against virtual tokens, accepting them as collateral, opening accountsof exchanges dealing with them and transferring/receipt of money in*

> *accounts relating to purchase/ sale of VCs with the transactions entered into by the applicant, coupled with the aspect that apart from the investments received by the applicant prior to the circular dated O6.O4.2018,* ***the applicant continued to take investments even after the RBI's circular dated 06.04.2018 as per the statement of amount invested by complainants along with receipts as submitted by the applicant vide documents dated 27.09.2021 filed vide diary No.797160…****"*
>
> (*bold emphasis is as in the quoted extract*)

After the above extracted portion, in the judgment dated 26.10.2021 the learned coordinate bench of this court enlisted as many as 15 investors with further details from whom money was collected by the accused/applicant even after the RBI circular dated 06.04.2018. This act of the accused/applicant collecting money even after derecognition of crypto currency in itself shows *mala fide.*

10. Next comes the question as to whether the accused/applicant is a flight risk. Merely because the accused/applicant did not flee the clutches of law despite being released on interim bail, the issue of flight risk cannot be decided in his favour. For, as mentioned above, the accused/applicant was evergreening his liberty by making piecemeal mediation settlements with the victims, without paying them their due amounts and the matter was being adjourned across past more than two years, as he was successfully conveying impression of his *bona fide.* On the issue of flight risk, as reflected from chargesheet, during investigations, efforts were made to locate the accused/applicant and interrogate him, but it came out that he had fled to Dubai, so in order to secure his presence, Lookout Circular was issued against him, and on 30.12.2020 he was apprehended at the airport and

arrested. The deep pockets of the accused/applicant, coupled with the nature and expanse of offence in the present case and 13 more cases with consequential possibility of long incarceration lends credence to the apprehension of prosecution that the accused/applicant is a flight risk.

11. As held in catena of judicial pronouncements by the Supreme Court and all High Courts, economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. For, economic offences, unlike most conventional bodily offences, are committed with elaborate planning and expertise. Especially, dealing in crypto currency has profound implications on economy of our country by way of dissolution of recognised money into the dark unknown and untraceable money. The allegations against the accused/applicant in this multi-victim scam are quite serious, more so in the light of his antecedents of involvement in as many as 13 more cases of similar nature, list whereof is on record and not challenged by the accused/applicant. The accused/applicant *prima facie* seems to have duped 61 investors after painting a rosy picture of getting them returns of 20% to 30% on their investments in crypto currency, which process he continued against the gullible persons even after derecognition of crypto currency. And there can be revelation of more such defrauded persons, as the ongoing investigation is unfolding, having reached the number of defrauded investors from 48 to 61.

12. To summarise, there are multiple factors that convince this court to deny bail to the accused/applicant, and the same are: complexity and

expanse of the economic crime alleged against the accused/applicant; continuance of collection of investments in the business of crypto currency by the accused/applicant from credulous investors, swayed by the mirage of 20% to 30% profit assured by the accused/applicant, despite derecognition of crypto currency; blatant misuse of the mediation system by the accused/applicant by alluring execution of mediation settlements and not complying with the same despite adjournments across more than two years before the predecessor benches; the accused being a serious flight risk; continuance of investigation, unfolding more and more victims of the fraud; and the antecedents of the accused/applicant.

13. Therefore, this Bail Application is dismissed. The pending application stands disposed of

14. However, nothing observed herein shall be read by the learned trial court while final deciding the trial.

15. The accused/applicant, who is on interim bail granted by the predecessor bench, shall surrender before the IO or the trial court forthwith.

GIRISH KATHPALIA

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**GIRISH KATHPALIA**
**(JUDGE)**

**JULY 14, 2025/**as