

# Asha Jain vs State Nct Of Delhi on 29 May, 2025

**Author: Neena Bansal Krishna**

**Bench: Neena Bansal Krishna**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision:29th May, 2025

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BAIL APPLN. 1651/2025

VINAY JAIN

.....Petiti

Through: Mr. Zeeshan Diwan, Mr. Krishna Datta  
Multani, Mr. Joel James & Mr. Harsha,  
Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Utkarsh, APP for State.

Mr. Vikas Arora, Ms. Radhika Arora,  
Mr. Mohit Taneja, Mr. Abhay Sachan  
& Mohd Azhar, Advs for R-2/  
Complainant.

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BAIL APPLN. 1663/2025

ASHA JAIN

.....Petiti

Through: Mr. Zeeshan Diwan, Mr. Krishna  
Datta Multani, Mr. Joel James & Mr.  
Harsha, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvair Singh Chauhan, Adv for

BAIL APPLN. 1651/2025 &BAIL APPLN. 1663/2025

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Signature Not Verified

Signed By:RITA

SHARMA

Signing Date:30.05.2025

17:55:06

State with Insp. Kamal Kishor, PS  
EOW.

Mr. Vikas Arora, Ms. Radhika Arora,  
Mr. Mohit Taneja, Mr. Abhay Sachan  
& Mohd Azhar, Advs for R-2/  
Complainant.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The aforesaid two bail Applications under Section 439 of the Code of Criminal Procedure, 1973 („Cr.P.C. hereinafter) have been filed on behalf of the Applicants - Mr. Vijay Jain and his wife, Mrs. Asha Jain decided together from the FIR No. 03/2021, under Section 420/406/120B of the Indian Penal Code, 1860 („IPC hereinafter), PS EOW.

2. It is stated in the Bail Application that two companies namely M/s AVJ Developer Pvt Ltd ("AVJDPL") and M/s Best View Properties Pvt. Ltd ("BVPL") was incorporated by the Applicant - Vinay Jain, which were the family owned Companies in which his wife/Applicant-Asha Jain, a housewife, was a Director. Though she was not in-charge or managing the day today affairs of the aforesaid companies. Though she was designated as a full time director, she never took part in the working of the two companies.

3. Sh Vinay Jain as Director of the two companies, took a loan of Rs 135 crores from IIFL in 2014 in three loan tranches for the development of a project undertaken at Anand Vihar for construction of a commercial space. However, in 2016, AVJDPL hit a slump in the real estate market and was unable to pay the EMIs. Sh Vinay Jain requested to IIFL to release the remaining Rs 12 crores from the sanctioned loan and further provided to top up of Rs 50 crore to complete the construction and sought reduction of interest rate to 12-14% p.a.

4. The Applicant- Vinay Jain & Vipin Aggarwal, Ex-directors were taken into custody on 23.03.2017 in FIR No. 639/2016 PS Surajpur, Greater Noida. But Applicant-Vinay Jain was released on bail on 24.10.2017 while Mr. Vipin Aggarwal was released on 07.11.2017. It is claimed that fraud was committed by IIFL who fraudulently executed a Board Resolution for the Fourth Loan of Rs 85 crores on 01.11.2017 with a fraudulent manner and conveniently classified the three prior loan accounts as NPA on 31.12.2017. Sensing fraud, deceit, Applicant-Sh Vinay Jain filed a police Complaint with DCP, EOW, Delhi vide diary No. D8651 against IIFL and its officers, but no action was taken by the police. The property of BVPL was auctioned in 2018 by IIFL fraudulently to its own sister entity at a severely depreciated price and caused huge loss to the Applicants and other investors. The Application under Section 156(3) Cr.P.C. was preferred by Sh Vinay Jain before the learned CMM, Delhi against IIFL for forgery, fraud and cheating which was allowed and FIR No. 143/2019, PS EOW under Sections 420/465/468/471/120B IPC was directed to be registered. The Applicant- Vinay Jain then got arrested on 24.12.2019 in FIR No. 756/2018 at PS Surajpur, UP.

5. In the interim, Complainant in FIR No. 03/2021 filed a police Complaint alleging that Rs 2.7 Crores were invested by him in AVJ Developers India Pvt Ltd and BVPL, companies run by the Applicants as Directors. The said investments were made for three shops in a project namely AVJ Business Park, Anand Vihar which was a shopping complex and the investments were made between January to April 2016. However, the said project and the land on which it was to be initiated was fraudulently auctioned off by IIFL to its own sister entity and thereby the Complainant was cheated. Moreover, the Complainant-Shvarinder Singh Kathuria also alleged that the Applicant-Vinay Jain had mortgaged the said project and the plot to IIFL for three loans without disclosing the

agreement to sell with the Complainant, on account of which he had suffered huge losses. The present FIR No. 03/2021 was registered against the Applicants under Sections 420/406/120BIPC at PS EOW.

6. Sh Vinay Jain was granted interim Bail in all the proceedings relating to project AVJ Heights on 26.02.2021 on the condition of making substantial efforts to resolve all the disputes with all stakeholders for a period of six months. The interim bail of Sh Vinay Jain was confirmed by the Apex Court on 29.09.2021. Since then the Applicant has made several efforts and has become the only Sole Successful Resolution Applicant in the CIRP proceedings concerning AVJ Developers India Pvt Ltd. The Resolution Plan has been approved by more than 72% of creditors who were majority homebuyers, which is pending consideration before the NCLT.

7. The Applicant has further submitted that they had made efforts to settle the Complaints in several Cheque bounce cases arising out of the projects. He has been regularly appearing in the Courts in the FIRs and all the 138 NI Act cases. He has also been litigating against IIFL for the fraud played upon the Applicant before the NCLT, NCLAT, High Court and Supreme Court. The Applicant and his wife were surprised to learn about the FIR No. 03/2021 PS EOW on 07.04.2025, wherein they have been arrested. The Applicant-Vinay Jain has now come to know that he was declared „Proclaimed Offender“ in the present FIR because all the Notices, Summons and warrants were being deliberately served by the IO at his residential address i.e. D-230, Vivek Vihar, New Delhi where he has not been residing since 2021. The IO had full knowledge of this fact and also had the Applicant's mobile number through which he could have been contacted by the IO and asked him to join investigation but this has not been done deliberately.

8. Upon production before the learned MM, both the Applicants were sent to the police custody for two days and thereafter, they have been in judicial custody. The Applicants filed the Bail Applications before the learned CMM which were rejected vide Order dated 19.04.2025. The two Applicants filed their Bail Applications before the learned ASJ, but the same also got dismissed on 26.04.2025. Hence, the present Applications have been filed for seeking bail.

9. The ground on which the bail is sought are that the allegations in the FIR are essentially civil in nature. The Applicant themselves have been cheated by the acts of IIFL who have fraudulently auctioned their plot in Anand Vihar by manipulating the loan transactions. The Applicants have already initiated civil litigation for challenging the auction carried out by IIFL. It is claimed that by filing the present FIR, the Complainants are trying to give a criminal colour to acts, which are essentially civil in nature.

10. It is further contended that in the allegations framed by the complainant that the auction of Anand Vihar property was infact done at the behest of the Applicant in collusion with IIFL is completely misconceived and illogical. The Applicant had pursued the matter upto DRAT but because of being in judicial custody, he was unable to contest the same, which was dismissed for non-prosecution. The Applicants also initiated Arbitration proceedings which have been decided in their favour by the learned Arbitrator vide Award dated 03.07.2024 against which objections have been filed which are pending consideration.

11. The bona fide of the Applicant are evident and there is no whisper of any fraudulent activities warranting non-favourable Orders in the Bail Applications. The Applicants themselves have been the victim of fraud and cheating by IIFL for which the FIR No. 143/2019, PS EOW has already been registered.

12. It is further asserted that that act of the IO in arresting the Applicant was illegal, particularly in light of the fact that the IO has not taken any action against the officials of the Applicants, the entities primarily responsible for the fraudulent activities in this case. The Applicants have been extending constant cooperation with the investigation and have always been willing to provide all the necessary information and participate fully, but IO has not made any questions to engage with them in a meaningful manner. The true culprits namely officers of the IIFL and Just About Movies Pvt Ltd (JAM) have been left untouched. The selective approach of the IO not only undermines the fairness of the investigation but also indicates the unjust nature of the Applicants arrest.

13. It is further submitted that triple test of bail is being fully satisfied with the Applicant. They have deep roots in the society. Moreover, Sh Vinay Jain has been declared the sole successful Resolution Applicant in CIRP proceedings. They have multiple litigations and criminal trials that are pending and they have no question of the Applicant evading from the trial. There is no likelihood of the Applicant tampering with evidence which is essentially documentary in nature. They are not in a position to influence the witnesses/Complainant, who are vociferously pursuing their Complaints.

14. The Applicant further asserted that the learned CMM as well as learned ASJ have not appreciated the fact in correct prospective and have wrongly denied the bail. A prayer, is therefore made, that they may be granted bail.

15. Learned counsel on behalf of the Applicant has argued that there are only two Complainants in the present FIR who have come forth, and the Applicants will make personal efforts to settle the matter. The matter has been settled by Sh Vinay Jain, through his son, with the Second Complainant and the Applicant is not in a position to negotiate properly while in jail and has sincere intention to settle the matter with the present Complainant once he is able to come out from the jail.

16. It is argued that never ever any malafide on part of the Applicant but it was merely failed business venture which has resulted in losses despite which the Applicants are making sincere efforts to settle the claims of all the homebuyers/investors in the two projects.

17. It is further submitted that Smt Asha Jain is the wife of Sh Vinay Jain who was housewife and though who has played full time Director involved into the day-to-day affairs of the business of the companies. The prayer is therefore made by both the Applicants be granted bail.

18. The Applications have contested by the Complainant who has vociferously argued that it is not a simple case of the business failure of the business venture, but there was clear evidence of the deceit and cheating on the part of the Applicant. They had allotted the same shops to more than one person and therefore to state that it was merely a business transaction is not correct. Though only two Complainants have come forth in respect of BVPL but there was about 70-80 shops allotted

and there are other aggrieved persons who may come forth with the grievance that serious loss caused to the Complainant to the tune of Rs 2.7 crores which is evident from the agreement entered Complainant and Sh Vinay Jain. A Copy of which has been supplied in Court.

19. It is submitted that considering the extent of fraud, and the fact that the Applicant had absconded for about four years and had been declared as Proclaimed offender and also that he was, in connivance with IIFL in misappropriating the land on which the project BVPL was to be erected, clearly make out serious allegations which do not warrant any indulgence given to the Applicants. The Bail Application is vehemently opposed.

20. The State has given their Status Report wherein it is submitted that during the investigation, it was found that the Applicant along with two other persons had obtained loan of about Rs. 180 crores from IIFL through a loan agreement but they failed to abide by the terms of the loan and failed to open the escrow account.

21. Furthermore, the Applicant- Sh Vinay Jain through BVPL executed Agreements to Sell in respect of the shops in the project including one to the Complainant without ensuring approval or Escrow compliances. During the investigation, Sh Vinay Jain came to join the investigation, both the Applicants along with Sh Vipin Aggarwal, brother in law of Smt Asha Jain got declared proclaimed person on 25.04.2023 by learned CJM, Delhi. Subsequently, Applicants have been arrested on 07.04.2025 from their rented property. It is asserted that both Applicants were Directors and major shareholders and moreover, they were direct beneficiaries of the funds obtained through investments.

22. The Bail Applications are opposed on the ground that the investigations are still ongoing and several critical aspects are yet to be examined. The Applicants are in an influential status as directors and key managerial positions in the aforesaid company and are in a position to tamper the evidence, there exists a strong possibility of them absconding. Considering the quantum of the financial stake involved having regard to this seriousness of the allegations and the magnitude of the financial fraud it is submitted that the Bail applications be rejected.

23. Submissions heard and record perused.

24. The Applicant had initially got arrested in April 2021 and another FIR pertaining to AVJ project but were admitted to Interim Bail by Apex court to enable Applicant-Vinay Jain to be able to settle the claims of the homebuyer who had invested in the said project. The Applicant- Vinay Jain has been found as the sole successful resolution applicant in the CIRP proceedings.

25. The chargesheet has already been filed. No fruitful purpose would be served by keeping them in jail especially when the Applicant has assured to make sincere efforts to settle the matter with the Complainant as has been done with the second complainant.

26. Considering the totality of circumstances, the accused is granted Regular Bail, on the following terms and conditions:

a) The petitioner/accused shall furnish a personal bond of Rs 50,000/-

and one surety of the like amount, subject to the satisfaction of the learned Trial Court.

b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing;

c) The petitioner/accused shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;

d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.

e) In case the petitioner/accused changes their residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

27. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

28. The above Bail Application is accordingly disposed of.

(NEENA BANSAL KRISHNA) JUDGE MAY 29, 2025 sk