AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2581 OF 2025

Tilak Sanjay Joshi … Applicant

V/s.

The State of Maharashtra … Respondent

Mr. Sudeep Pasbola, Senior Advocate with Mr. Rahul Arote, Mr. Rohin Chauhan, Mr. Swaraj Sable, and Mr. Shiraj Patil for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the respondent-State.

Mr. P.Z. Raut, Unit-12, DCB CID, Mumbai, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : AUGUST 26, 2025

PRONOUNCED ON : SEPTEMBER 4, 2025

P.C.:

1. The present bail application has been filed by the applicant under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"). By this application, the applicant seeks his release on regular bail in connection with Crime Register No. 13 of 2025 registered with DCB CID, Unit–12, Dahisar (originally registered as Crime Register No.126 of 2025 with Borivali Police Station, Mumbai). The offences alleged against the applicant are punishable under Sections 316(2), 318(4), 111(2)(B), 111(3)(4)(6)(7), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (hereinafter referred to as "BNS").

2. As per the case of the prosecution, secret information was received regarding illegal activities relating to supply of drugs, e-cigarettes, as well as running of a fraudulent call centre. The complainant along with other police officials was informed of the same. Later, at about 11.00 p.m., they were further briefed about a raid to be conducted at a call centre situated on the third floor of Aparna Apartments, Amarkant Jha Marg, Borivali (West), where construction activity was still ongoing. The information disclosed that a scam was being operated targeting American citizens, wherein they were deceived under the pretext of resolving computer-related problems, and thereafter their bank account details were obtained by hacking and cheating.

3. Acting on this information, at about 12.55 a.m., a raiding team consisting of two panch witnesses and a cyber expert conducted a raid at the said premises. At that time, the applicant ApplicantSanjay Joshi opened the door and informed that he was running the call centre. On being apprised about the purpose of the raid, the police team was allowed to enter. During inquiry, Applicantdisclosed that the call centre was being operated by him along with one Akshad Surana and Abhishek Gupta. Several persons were found present in different cabins. Thirteen persons in all disclosed their names and addresses. Out of them, ten persons had joined duties about 8 to 10 days earlier for training purposes. It was revealed that the applicant Applicant, along with Akshad Surana and Abhishek Sharma, had engaged them as tele-callers, provided them with mobile phones, and instructed them in their work. These persons were directed to remain present before the police at 10.00 a.m. on 22nd February 2025.

4. During the raid, the police arrested four persons namely, Applicant (owner), Amit Sanjay Kas Reddy (closure), Jeevan Anil Nawadkar (team leader) and Pratham Sanjay Sonawane (team leader). Their mobile phones were seized and 22 laptops used in the operation were also taken into custody. The police noticed that calls were being made by using applications such as Text+ and Text Now. Two routers and TP Link devices were installed for Wi-Fi connectivity. On being questioned, Applicant failed to produce any license for operating the call centre. He further revealed that American citizens were targeted through Google Select by generating pop-up messages about alleged problems in their laptops. The victims were made to believe that they were speaking to Microsoft representatives through applications such as Ultra Viewer and Eyebeam. Thereafter, access to their laptops was obtained and they were falsely threatened about downloading pornographic content. To instill fear, they were later contacted through the Text+ application and compelled to purchase gift cards.

5. During inquiry, Applicant disclosed that the premises belonged to one Deepan Suresh Dhanwani and was taken on rent from him. The ten female staff members present in the office were served with notice to remain present before the Crime Branch on 22nd February 2025, and were allowed to leave. Video recording of the premises and panchanama was duly conducted. Thereafter, crime came to be registered and four accused persons including the present applicant, who was functioning as a Team Leader, were taken into custody. On this basis, the FIR was lodged.

6. Mr. Pasbola, learned Senior Advocate on behalf of the applicant submitted that the applicant is not owner of the Call Centre. However, he has been arrested based on suspicion. He submitted that the prosecution has not received any complaint from victim in respect of cheating. There is nothing on record to suggest that the applicant is beneficiary of any scam or tempted money from the persons who have been allegedly duped. No statement of any victim has been recorded by the Investigating Agency.

7. He further submitted that the applicant has not been served with the grounds of arrest under Section 47 of the BNSS. He further submitted that on 19 April 2025 the applicant was produced before the Court when accused was not summoned by any Court or production warrant was issued by the Court. However, at that time the Investigating Officer sought to obtain signature on some paper outside Court. However, the applicant refused to sign on the said paper. Later on, the Investigating Officer produced some paper showing compliance of Section 47 apparently having signature of the applicant. However, the applicant has denied that he has signed such paper. The Sessions Court has issued show-cause notice to the Jail Superintendent in that respect. Inviting my attention o the signature of the applicant on arrest panchnama, he submitted that the signature on the document showing compliance under Section 47 of the BNSS differs with the signature of the applicant on arrest panchnama. Though the name of applicant's mother was mentioned in the arrest panchnama as a person to whom intimation is to be given, the intimation appears to have been given to one Chandani Rana, which is subsequently prepared by the prosecution.

8. Inviting my attention to the order dated 22 February 2025 granting applicant remand to the police custody extended till 24 February 2025, he submitted that the mention regarding communication of grounds of arrest in the said order has been mechanically included, as perusal of the said order indicates that certain portions in the order are written in hand which shows that the order was cyclostyled and details regarding time of production of the accused and grounds mentioned for police custody have been inserted. He, therefore, submitted that the application deserves to be released on bail.

9. Per contra, Ms. Mahalaxmi Ganapaty, learned APP, strongly opposed the application for bail. She submitted that reliable confidential information was received by the police that at Aparna Apartment, 3rd Floor, Amarkant Jha Marg, the present applicant (described as the owner) along with co-accused Amir Sanjay Kas Reddy (closure) and others were engaged in running a fraudulent call centre. Their modus operandi was to send pop-up messages to unsuspecting persons, particularly American citizens, by making it appear that their computer or laptop system had developed some technical issue. Once the victim responded and called the toll-free number through the "Eyebeam Application," one of the attendants employed by the accused persons would impersonate as an employee of Microsoft Company. Thereafter, the victim was instructed to download and use the "Ultra Viewer Application," which enabled remote access to the victim's laptop. Once such access was obtained, the attendant would falsely inform the victim that he had downloaded child pornographic material from the website namely www.pornhub.com. By creating such fear, the attendants would later contact the victims through the "Text+ Application" and demand money in the form of gift cards. Acting on the said information, the DCB-CID Unit XII conducted a raid on 22.02.2025 at the said premises and found that such activities were indeed being carried out. A detailed panchnama was accordingly drawn.

10. Learned APP further submitted that during the course of investigation, it was revealed that the present applicant was the owner of the call centre. The Leave and License Agreement of the premises where the call centre was being run was found to be in the name of the applicant. The statement of the landlord, Shri Dipen Suresh Dhanwani, was also recorded wherein he confirmed that the premises had been given on leave and license to the present applicant. During investigation, the mobile phone belonging to the applicant was seized under a panchnama dated 23.02.2025, and the data contained therein including chats and screenshots was extracted and printed in the presence of two panch witnesses.

11. It was further submitted that upon examining the laptops and mobiles seized from the premises, several fake weblinks were discovered which contained personal details of American citizens, such as their names, mobile numbers and email IDs. The data extracted from the laptops revealed calling details of customers, while the call log details of an Apple iPhone were also retrieved. In addition, certain chats and other incriminating material were found stored in the laptops seized during the raid.

12. With respect to the contention of the applicant regarding non-compliance of Section 47 of the BNSS, the learned APP submitted that the applicant was arrested on 22.02.2025 strictly in accordance with law. The requisite notice under Section 47, setting out the grounds of arrest, was duly given to him and bears the signature of the applicant. The information of his arrest was also promptly communicated to his relatives. Before the arrest, the applicant was informed about the reasons for his arrest as well as his legal rights, and the arrest form was filled up in the presence of two independent panchas bearing the signature and thumb impression of the applicant.

13. After the arrest, the applicant was produced before the learned Magistrate. The requisite information under Section 35(1)(b) of the BNSS was also submitted before the learned Magistrate. Upon being satisfied that the checklist was duly complied with, and that the grounds of arrest were communicated to the applicant and intimation of his arrest was given to his relatives, the learned Magistrate remanded the applicant to police custody till 24.02.2025. The Remand Application, setting out the details of the offences as well as the necessity for custodial interrogation, was also served upon the applicant.

14. On 24.02.2025, a second Remand Application was moved and duly served upon the applicant. The applicant was again produced before the learned Magistrate. After considering the material placed, and hearing both the learned Advocates for the State as well as for the applicant, the learned Magistrate remanded the applicant to magisterial custody. It is significant to note that during both these remand proceedings, the applicant was duly represented by an Advocate and had contested the grant of custody. However, at no point during those hearings was the issue of non-furnishing of grounds of arrest raised by the applicant.

15. Being dissatisfied, the applicant thereafter filed a Bail Application before the learned Sessions Court. For the first time in those proceedings, the argument regarding non-furnishing of the grounds of arrest was raised. The learned Sessions Court, however, after examining the record, came to the conclusion that there was due compliance with the mandate of law and that the written grounds of arrest were provided to the applicant. Accordingly, the Sessions Court rejected the Bail Application.

16. From the above sequence of events, learned APP submitted that it is abundantly clear that on the very date of arrest i.e., 22.02.2025, the grounds of arrest were communicated to the applicant in writing, which endorsement was acknowledged by him with his signature. The information about his arrest was also duly conveyed to his relatives and the same has been annexed to the record. Hence, there is complete compliance with the requirements of law regarding furnishing of grounds of arrest.

17. Learned APP further submitted that the applicant is not a first-time offender but is a habitual offender. There are in fact five similar cases registered against him, three at Ahmedabad, one at Goa and one at Gandhinagar.

18. She further submitted that the modus operandi adopted by the applicant and his associates was to contact several American citizens, threaten them with false accusations of downloading pornographic material, and thereafter extort money from them in the form of gift cards. These gift cards were then converted into bitcoins and the proceeds were transferred to various other accounts. Having regard to the seriousness of the offence, the repeated nature of the crime, and the possibility of tampering with evidence if released, she prayed that the present application for bail be rejected.

19. I have carefully considered the submissions made by the learned Senior Counsel appearing on behalf of the applicant as well as the submissions advanced by the learned APP for the State. I have also perused the material placed on record including the panchnamas, remand orders, seizure documents and other investigation papers.

20. At the very beginning, it needs to be noted that the allegations against the applicant are neither small nor casual in nature. The prosecution has placed material on record which shows a well-planned method adopted for cheating foreign nationals. The plan was to run a bogus call centre, where the employees pretended to be executives of a reputed software company like Microsoft. After first gaining the trust of the victims, they would then create fear by falsely telling them that pornographic material had been downloaded on their computers, and on that basis extort money from them under the guise of fixing the so-called problem.

21. Such allegations cannot be taken lightly, because they clearly show an organized pattern of crime, where each person had a specific role to play. It is not about one-off cheating by an individual, but a case where a syndicate was working in an organized and professional way to target foreign citizens and make unlawful gains.

22. The material collected during investigation supports this version of the prosecution. The seizure of laptops, mobile phones, routers and other digital devices, along with recovery of data containing details of American citizens, call logs and chats, prima facie shows that the raided premises was in fact being used for carrying out such fraudulent activities. On the basis of this evidence, the Court cannot at this stage treat the prosecution case as doubtful or baseless. On the contrary, it points to a prima facie case of organized cyber fraud with serious consequences, which must be kept in view while considering the request for bail.

23. The contention of the applicant that no victim complaint has been recorded so far cannot be a ground to discard the prosecution case at this stage. In offences of this nature, particularly where foreign nationals are duped through online frauds, the complaint may not always be directly forthcoming in India. The absence of a victim's statement at this stage does not ipso facto absolve the applicant when there is other circumstantial and electronic evidence pointing towards his active participation.

24. The argument raised on behalf of the applicant regarding non-compliance of Section 47 of the BNSS also does not impress this Court. The material placed on record, including the arrest form and endorsements, clearly shows that the applicant was furnished with the grounds of arrest in writing and the same bears his signature. The arrest intimation was also duly communicated to his relatives. Further, the learned Magistrate, while remanding the applicant first to police custody and thereafter to magisterial custody, has specifically recorded satisfaction about the compliance of the legal requirements under the BNSS. It is also not in dispute that during both these remand proceedings, the applicant was duly represented by an Advocate. Despite having such legal assistance and an opportunity to raise all objections before the Magistrate, no grievance regarding non-furnishing of the grounds of arrest was voiced at that stage. The said objection appears to have been raised for the first time only during the bail proceedings, which creates doubt about its genuineness.

25. It is a well-settled principle that procedural irregularities, if any, must be raised at the earliest stage, particularly when the accused is produced before the Magistrate and represented by counsel. In the present case, not only has the applicant failed to raise this issue earlier, but the documents relied upon by the prosecution, coupled with the satisfaction recorded by the Magistrate, prima facie establish that the mandate of Section 47 has been complied with. The mere allegation that the signatures differ or that intimation was not properly served, without any supporting material, cannot be a ground to hold that the arrest was illegal. Such disputed questions of fact are matters of evidence which can be examined at the stage of trial and not in bail proceedings.

26. In this view of the matter, I find no substance in the contention of the applicant that there has been a violation of Section 47 of the BNSS.

27. On the contrary, the record prima facie shows that there has been due compliance of law and the arrest cannot be said to be illegal. The contention regarding variation of signatures is a matter of trial and cannot be adjudicated in detail in these bail proceedings.

28. The further material placed on record shows that the premises where the alleged call centre was operated were taken on rent by the present applicant himself under a leave and license agreement. The statement of the landlord corroborates this fact. The applicant's mobile phone has also been seized, and the extracted data reveals incriminating chats and communications. This, coupled with the seizure of laptops and fake weblinks containing personal details of American citizens, prima facie connect the applicant with the running of the fraudulent call centre.

29. The submission of the learned APP that the applicant is a habitual offender and has five other similar cases registered against him in different States is also a matter of concern. At this stage, the antecedents of the applicant cannot be lightly ignored, as they reflect the likelihood of the applicant indulging in similar activities if released on bail.

30. Considering the seriousness of the allegations, the manner in which the offence is alleged to have been committed, the electronic evidence recovered from the premises, the applicant's role in securing the premises and running the call centre, and the likelihood of tampering with evidence or influencing witnesses, this Court is not inclined to exercise discretion in favour of the applicant.

31. The offences alleged are grave, having cross-border ramifications and causing loss not only to individuals but also affecting the reputation of the country. The principle of balancing individual liberty with societal interest weighs against the applicant at this stage.

32. In view of the aforesaid discussion, I am of the opinion that this is not a fit case to grant bail to the applicant.

33. Hence, the Bail Application stands rejected.

(AMIT BORKAR, J.)