**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-11886-2025
Reserved on: 03.04.2025
Pronounced on: 22.04.2025

Ritesh Kumar Gupta ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
111	14.10.2024	Cyber Crime Police Station Hisar	318(4) & 61 of BNS 2023

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.

2. In paragraph 12 of the bail petition, the accused declares that he has no criminal antecedents. However, per paragraph 12 of the status report, the accused has the following criminal antecedents:

Sr. No.	FIR No.	Date	Offenses	Police Station
1	25	01.02.2025	191(2), 351(2), 352 & 318 of BNS 2023	Kidvai Nagar, Kanpur

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

> *"That briefly stated facts of the case are that the present case was registered on the application moved by the complainant Anil Kumar, P.S. Cyber Crime, Hisar, contents of which are as below:-*
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> *"I received a phone call they told me that an international parcel has been delivered in your name. It contains some illegal articles and some documents. These were being sent to Dubai. You get an online FIR*

registered against this. After that they forwarded the call. After that according to their direction I got an FIR lodged. As demanded by them I sent them a copy of my Aadhar card. After that they told me that we are verifying your Aadhar card. After 2 minutes they told me that you are involved in money laundering case. Arrest warrants have been issued against you. You give us clear information otherwise we will arrest you. They collected my entire financial details from me. They terrified me and after terrifying me they said that your money will be verified. Hence whatever money you have in bank and in Fixed Deposit you transfer all that to us and transfer to the RBI. For that they got RTGS forms filled from me for an amount of Rs. 15,00,000/- (Rupees fifteen lac) In this way they committed a fraud with me to the tune of Rs. 15,00,000/- (Rupees fifteen lac). It is requested a legal action be taken against them."

4. The petitioner's counsel submits that on 18.03.2025, he had undertaken to declare assets and in terms of the same petitioner's wife has filed an affidavit declaring assets vide CRM-13351-2025 and original copy has been handed over to the State counsel. Counsel further prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family. He further refers to para 3 of the bail petition, which reads as under:-

"3. That the petitioner thus, deserves the concession of Regular bail, inter alia, on the following grounds :-

(xii) That petitioner is not named in FIR.

(xiii) That petitioner is nominated in the present case on the basic of the discloser statement of co-accused namely Gyanender.

(xiv) That petitioner is not the beneficiary.

(xv) That all the offences are triable by Magistrate.

(xvi) That Challan stand presented, Charge stand framed and petitioner is in custody since 08.12.2024.

(xvii) Thar nothing incriminating has been recovered from the possession of the petitioner.

(xviii) That the petitioner has been framed up and falsely implicated in the above noted case.

(xix) That it is respectfully submitted that BNS invokes penal provisions

which are to be construed strictly. It is submitted that by no stretch of imagination much less legal fiction any offence can said to have been committed by the petitioner (herein).

(xx) That the FIR is totally vague and devoid of particulars and supporting material & only bald and startling false allegations have been made. The allegations and averments are so absurd and vague apart from being inherently improbable that no prudent person can ever reach a just and fair conclusion that there exists sufficient grounds for proceeding against the petitioner.

(xxi) That even if the entire allegations are taken at their face value and accepted in their entirety yet no offence or case is made out against the petitioner (herein).

(xxii) That even the ingredients of sections are also not made out against the petitioner and there is nothing in the allegations to even remotely say that petitioner had committed alleged offence."

5. In the order dated 03.04.2025 it is noticed that CRM-13351-2025 is allowed, as on that day, it skipped from mind of this Court that there was no need for taking on record the affidavit and this Court had never asked the petitioner to place on record the affidavit regarding declaration of assets, therefore the order dated 03.04.2025 regarding taking on record the Annexure A-1, is recalled and the said application be treated as dismissed.

6. The State's counsel opposes bail and refers to the reply.

7. It would be appropriate to refer to the following portions of the reply, which read as follows:

"That after registration of FIR the investigation of case was carried out by the investigating officer and during investigation of the case an amount of Rs.15,00,000/- of the complainant was found to be transferred in bank account No. 2010003581525 of Bandhan Bank and accordingly the record of Bandhan Bank account was obtained in which the account holder was found to be Shiv Shakti Traders, Gyanender Singh resident of 128/03 Babupurva Colony, Ward No.54, Zone No.3, District Kanpur, U.P., Pin Code 208011 and the registered Sim No. 63868-05287 was found in the present case. That Sim No.63868-05287 was found operated in mobile whose IMEI No.863519050147318. From perusal of details of IMEI No. 863519050147318 another SIM No. 63939-09986 was found to be operated whose ID was in the name of Gyanender Singh.

5. That it is pertinent to mention here that during further investigation accused Gyanender Singh was arrested on 22.10.2024 and mobile phone make realme 8, 5 G was recovered from him and whose IMEI No. was 863519050147318/16 and second IMEI No. is 863519050147300/16 and the same was found to be used in occurrence of offence. Mobile phone of accused Gyanender was taken in police possession vide separate property seizure memo. Disclosure statement of the accused was recorded in which involvement of the petitioner/accused was transpired whose mobile number is 82103-26985 and accordingly section 61(2) of B.N.S was added in the present case. Copy of disclosure statement of accused Gyanender is appended herewith as Annexure R-1.

6. That during further investigation of the case in furtherance of disclosure statement PAN Card, Aadhar Card, Shiv Shakti Traders stamp, Bank account used in occurrence of offence Debit Card, Cheque book were recovered and taken in police possession by the investigating officer.

x x x x

13. That as far as specific role of the petitioner/accused is concerned the petitioner/accused in connivance with accused Gyanender provided account to accused namely Harender Kumar for which they were assured to provide 20% of the payment received in the account. Petitioner/accused received an amount of Rs.50,000/-from the accused Gyanender Singh on the same day and in the account of accused Gyanender Singh around Rs.2.36 Crore were found to be received in such short period of time including the amount of complainant.

REASONING:

8. An analysis of para 13 of the status report clearly points out that petitioner's role is that he acted as a money mule and in the greed of getting 20% payment he had handed over his account to Gyanender Singh. Counsel for the State submits that police report had already been filed. Given the fact of filing the chargesheet against the petitioner, this Court does not want to order further investigation but would like to observe that in cyber crimes first objective of the police department must be to recover the amount involved and keep on freezing all the bank accounts of beneficiaries till end of the money trail unless the amount is not recovered or frozen. Be that as it may in the present case, petitioner has already been in custody for 03 months & 09 days as per custody certificate dated 17.03.2025, as such total custody till now is around 04 months. Given the amount involved, this Court does not deem appropriate further custody.

9. Although investigation has been completed, it would be appropriate to refer to

following portion of the status report dated 02.04.2025, which reads as follows:-

> *"That in the present petition detalled affidavit has been already filed by the deponent which was taken on record on 18.03.2023. Thereafter in the present case this Hon'ble High Court was pleased to pass following orders:-*
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> *"Status Report by way of affidavit filed by State counsel is taken on record. A copy thereof has been supplied to counsel for the petitioner.*
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> *Perusal of the status report reveals that initially complainant was cheated and money was transferred in account No.2010003581525 of Bandhan Bank. State counsel on instructions from Investigator submits that although the account was frozen but money was further transferred. Let the concerned SHO to take steps to find the trail of money. All the bank managers of the Bank where the money is transferred are directed to fully cooperate with the Investigator. In case, they do not cooperate and supply the information to the Investigator, in that case, concerned SHO is at liberty to initiate action against such bank managers in accordance with law.*
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> *List on 03.04.2025."*
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> *3. That during further investigation in compliance of order dated 18.03.2024 the money trial in the present case was traced out and it transpired that the fraud amount of Rs.15,00,000/- was further transferred from account No. 2010003581525 of Bandhan Bank in the following bank accounts:-*
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> *a) Rs. 9,76,000/- in the Bank account No.01940100041356 maintained at Bank of Baroda on 14.10.2024.*
>
> *b) Rs.5,00,000/- in the Bank account No.42695731902 maintained at State Bank of India on 14.10.2024.*
>
> *c) Rs.24,000/- in the Bank account No. 9948415952 maintained at Kotak Mahindra Bank on 14.10.2024.*
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> *4. That the bank account statement of bank account No. 9948415952 maintained at Kotak Mahindra Bank and Bank account statement of bank account No.42695731902 maintained at State Bank of India were received in the present case on 24.03.2025, whereas bank account detalls and KYC documents of bank account No.01940100041356 maintained at Bank of*

Baroda were received in the present case on 25.03.2025, wherein the name of the account holder reflected as Macwan Nelson.

5. That the present case is under investigation and after obtaining the CDR, CAF ID and other KYC documents of aforesaid bank accounts the further investigation will be carried out as per law."

10. Since the police is at liberty to freeze the account, petitioner has already joined the investigation and is in custody for the last four months, therefore he makes out a case for bail. There is sufficient primafacie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the primafacie analysis of the nature of allegations, and the other factors peculiar to this case, there would be no justifiability for further pre-trial incarceration at this stage.

11. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

12. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

13. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

14. This order is subject to the petitioner's complying with the following terms.

15. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

16. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of

this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

19. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

22.04.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.