IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12597-2025
Reserved on: 03.04.2025
Pronounced on: 29.04.2025.

Okechukwu Kingsley ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Robin Singh Hooda, Advocate for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
57	05.11.2023	Cyber Crime, Rohtak, District Rohtak	420 IPC and Sections 66-C & 66-D of IT Act (Sections 467/468/471/120-B IPC and 14 of Foreigners Act added later on)

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 11 of the bail petition, the accused declares that he has no criminal antecedents.

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

> "*2. That the facts of the case are that a complaint has been moved by Jai Bhagwan son of Raghbir Singh, resident of village Sanghi Distt.-Rohtak wherein he reported that he uses mobile phone bearing SIM card No.9813758730 and used to Instagram on this mobile. He received a friend request message from Instagram ID emanmarie654 on his Instagram ID and he accepted it. Thereafter, the said messenger asked him to talk on email. Then jaihooda72@gmail.com he to sent him. his After email that, ID on 25.07.2023, he received a message on his email from ritabelanglic@gmail.com. She told herself to be Maria eman living in Philippines and now working as a Bank Auditor (Alrayana BANK) in United Kingdom London. She sent her Staff Identity Card to him as proof. She described herself as a Divorced Woman and told*

him about her pain and she won the sympathy of complainant. Then she told him that a man named Denim Benzeck, a Libyan businessman, had deposited 2.8 million dollars in their bank and in 2008, his gunman shot him dead. He has no nominee for that money. Now when no nominee will come, the bank will deposit that money in its treasury. She told him that she will take out all the information of Denim Benzeck and guide him to fulfill all the conditions of the bank, then the bank will make him the nominee of Denim Benzeck and will transfer the funds to his account. He refused to do this work saying that he is a government officer. She said that this is a bank to bank transfer. Their bank will transfer the fund as per international law will which completely according to the law. She is also be an employee and no one will question him. Then she sent him a nominee form and asked to fill it and use the bank's email. He filled the form and mailed it to the bank. The bank's mail ID was alrayanbankislamic29@gmail.com. Then the bank asked him some questions like family details etc. Then the bank asked for a death and deposit certificate which she provided to him and asked him to mail it. Then a mail came from the bank saying that he had all the queries and they declared him as the nominee of Denim Benzeck and the fund will be transferred to his account soon. But before this, he would have to submit the Anti Drug and Terrorist certificate of this fund, which Denim Benzeck had taken with him after depositing the fund and asked him to send details of his bank account and for that purpose, he could take the help of their bank's advocate. The advocate's email ID told was advocatemouhamedconsultant45@gmail.com to him as and his address was Advocate Mouhamed Parkins law chamber The Solicitor in charge of Al Rayan Islamic Bank, United Kingdom, America Square Grosswal London, EC3N2SG, United kingdom. He contacted the advocate by mail who told him that it can be obtained from Royal Court London and its fee was 1500 GBP (Pound). The Advocate gave him an Account number of Gauri Javed, Bank, Canara A/c 110134598379, IFSC-CNRB0003423 (Gujarat) in which he deposited a total of Rs.1,61,950/- from his HDFC Bank Account No. 50100023401071 from 12.08.2023 to 14.08.2023 in the above mentioned Canara Bank account number. After this, the Advocate got both the certificates made and mailed to him. He received a mail from the bank stating that the bank had approved the fund in his favour and will soon transfer it to him. Then he received a mail from the bank and was told that before the transfer, he would have to submit nonresident notarized letter, affidavit of claim, power of attorney. The fee for the same was stated as 6605 pounds i.e. Rs. 6,60,000/- and was asked to deposit it. He deposited this amount from his bank account on 19.08.2023 in the above mentioned account of Gauri Javed. Then he received a mail from the bank stating that the certificate does not have the signature of Metro the Magistrate of Libya Government and for that purpose, he would have to go there and get the signature. Its cost would be 7800 pounds which is approximately Rs.12,80,000/- which he deposited from his bank account on 24.08.2023 to Manoj Jadavji No. 922020026180512. Golia, Axis On 24.08.2023, Bank, A/c he transferred Rs. 40,000 in the name of lawyer's fees from his bank account to Manoj Jadavji Golia bank account. Then the bank said that the bank

> *account is dormant as on 08.09.2023. To activate it, 1.2% fund has to be deposited which was Rs.27,75,000/-which he deposited from his bank account on 02.09.2023. Then the lawyer took Rs.10,000/- and Rs. 50,000/- from him on 06.09.2023 on the pretext of his son's cancer operation Rathnarrma in Munni No.110098908197. On transferred Rs.50,000/-Canara 08.09.2023, to Bank A/c complainant Shaikh Mahmad, Bank A/c No.1100138220640 and two Rs.25,000/- each to Shaikh Mahmad, No.1100138220640. Rs.1,60,000/-for Canara transactions of Canara Bank A/c total a transferred He operation of cancer the of the lawyer's son. Then he asked the attorney to sign the death certificate of Denim Benzeck and said that the account will be activated after the death certificate is signed. He told him that the login password will be created and given to him. For this, the total cost Rs. 12,46,100/-of for food travel and which he will be transferred Rs.8,00,000/- from his bank account on 26.09.2023 to Rajib Bank IDFC Paul, Rs.4,46,100 to A/c Shalendar Kumar, No.10091157994 and Saving Account, ICICI, A/C No.034801512849. Finally, a message came from the Advocate that Marin Eman had met with an accident. In this way, a huge fraud has been committed against him. He has been cheated of a total of Rs.62,98,050/-. He prayed for taking legal action against the accused persons. On the basis of said complaint a case vide FIR No.57 dated 5/11/2023 U/s 420 IPC & 66 (C), 66 (D) I.T. Act was registered at Police Station Cyber Crime, Rohtak."*

4. The petitioner's counsel 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.

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

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

> "*29. That the specific role of petitioner is that the petitioner has obtained the account of other people to receive the defrauded amount and after withdrawing the amount from account after holders he further used to give the said amount to other co-accused and petitioner has received total amount of Rs.43,95,000/- and petitioner has received amount of Rs.4-5 lacs as his commission. In addition to it two passports were verification of seized from the accused. The verification of one of the passport bearing No.G0603465 has already been received from High Commission of Ghana which was found fake. The verification of other passport bearing No.A11332156 is yet to be received. An amount of Rs.4,12,000/-was recovered from petitioner. The custody certificate of petitioner is attached herewith as Annexure-R1.*
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> *30. That the evidence against the petitioner is that during investigation on 1/12/2023 the holder of account number 922020026180512 Manoj Jadhav Ji Galia R/o B-11, Valmiki Sadan, Rani Sati Marg, Mumbai, Maharashtra was joined in investigation and as per his statement Sanjay Kumar Gupta son of Gulab Chandra Gupta resident of Ward No.H, Room*

> *No. 26 Dindosi MP Vasahar Santosh Nagar Near Nagri Niwara Goregaon East-12 Mumbai and Umesh Chamakori S/o Suryakant Chamakori R/O 402/403A Wing CTS Keshav Apartment Siddharth Nager Santacruz 2997 East Manbai at present 1103 N-WING CASA UNO LSG Palava Dombovali East Thane, were Maharastra joined in investigation and their statements were recorded in which they disclosed that the petitioner used their accounts to receive the defrauded amount and after withdrawing the amount they used to handover the same to petitioner. As per their statements the petitioner Okechukwu Kingsley Okpalakor Martin Ss/o Okpalakor Aloysuis R/0 House No.49 Surulere Ijeshatedo Road Lagos Nigeria Alias Martin Silas R/O Ghana Present address Flat no. 413 Sathi Apartment Rahmat Nagar Nalasopara, East Mumbai Maharastra was joined in investigation and after finding sufficient evidence regarding his involvement in the occurrence the petitioner was arrested in this case. the verification of one Moreover of the passport bearing No.G0603465 has already been received from High Commission of Ghana which was found fake."*

7. 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. Per paragraph 10 of the bail petition, the petitioner has been in custody since 11.12.2023. Per the custody certificate dated 02.04.2025, the petitioner's total custody in this FIR is 01 year, 03 months and 22 days. 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.

8. 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.

9. 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.

10. 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)	

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

12. 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.

13. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

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

15. In Frank Vitus v. Narcotics Control Bureau, 2025-INSC-30, the Hon'ble Supreme Court holds,

> [8]. In addition to what we held by judgment and order dated 08th July, 2024, we issue the following directions:
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> (i) While granting bail to a foreigner within the meaning of the Act, the concerned court shall issue direction to the State or prosecuting agency, as the case may be, to immediately communicate the order granting bail to the concerned Registration Officer appointed under Rule 3 of the Rules who, in turn, shall communicate the order to all concerned authorities including the Civil Authorities. If such information is furnished, it will enable the authorities under the Act, the Rules and the Order to take appropriate steps in accordance with the law;

16. Given the above, the concerned Deputy Superintendent of Police is to send a downloaded copy of this order to the Foreign Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992, framed under the Foreigners Act, 1946. Upon receiving the communication, the concerned Foreign Registration Officer shall notify all relevant authorities, including civil authorities, in accordance with the observations made by the Hon'ble Supreme Court in Frank Vitus v. Narcotics Control Bureau, Cr.A No. 2814-2815 of 2024, decided on January 6, 2025, Neutral Citation: 2025-INSC-30.

17. Although the Court has granted bail to the accused, the underlying issue remains unresolved, leaving the broader demands of justice unfulfilled. In the interest of fairness and impartiality, further deliberation is essential.

18. Generally, every foreign national entering India comes for a defined purpose and a finite duration. While some may engage in unlawful activities, such as cyber frauds and illicit trafficking of controlled substances, a measured legal response necessitates

vigilance at the point of entry rather than the indiscriminate denial of bail. The cornerstone of an effective deterrence mechanism lies in rigorous pre-admission scrutiny-comprehensive background verifications before visa issuance and the immediate revocation of visas upon credible and substantial allegations.

19. However, when a foreign national faces criminal prosecution within Indian jurisdiction, legal proceedings may tether them to the country, disrupting their academic aspirations, familial responsibilities, commercial enterprises, and personal liberties. Justice delayed is justice denied, but in the context of foreign nationals, justice prolonged is justice misplaced. Delayed trials and resultant legal limbo engender uncertainty in these individuals, compounding their fears within an unfamiliar jurisdiction and an unaccustomed to, legal system. Recognizing the far-reaching repercussions of protracted litigation, it is incumbent upon the judiciary to ensure the expeditious resolution of such cases, whether the accused is in custody or released on bail. Accordingly, this Court requests the Trial Court to prioritize and accelerate adjudication in this matter, balancing the necessities of due process with the principles of swift and faultless justice.

20. 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.

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

(ANOOP CHITKARA)
JUDGE

29.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.