

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25387-2025
Reserved on: 03.07.2025
Pronounced on: 15.07.2025

Kapil Kumar ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Harshit Jangra, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
391	26.12.2024	Cyber Crime/Cyber East, Distt. Gurugram	308(2), 351(2) of BNS (Section 67 of IT 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 13 of the bail petition, the accused declares that he has no criminal antecedents. However, as per para 7 (v) of reply and as per the custody certificate, the accused the following criminal antecedents:

Sr. No.	FIR No.	Year	Offenses	Police Station
1.	01	2025	318(4) of BNS and 66 D of IT Act	Cyber Crime, Durg (Chhattisgarh)

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

“3. That the brief facts of the present case are that on 26.12.2024, a complaint was submitted by HC Rakesh wherein he mentioned the details were received from the I4C portal that one person who unauthorisedly makes the recovery of loans of Flexi Loans Company app from his mobile no.99969xxxx, is present at U-Block, DLF Phase-III, Gurugram and if raid is conducted, he can be apprehended. The said HC Rakesh along with other officials conducted raid at 53/5, U-Block, DLF Phase-III, Gurugram, where one person was found standing. He was detained on the basis of suspicion. On asking, he disclosed his name as Kapil Kumar and also disclosed his mobile no. as 99969xxxx. Initially, he tried to mislead the police. He was taken to P.S. Cyber Crime East, Gurugram and he was

thoroughly interrogated. He disclosed that he works for recovery of loans of Flexi Loans company app. His companion Himanshu gives provides the data for the same and asks him to morph the photos of the persons who have taken the loans, and to join the same with objectionable photos and to send the same to the said persons and to blackmail them, for more recovery. The mobile no. of Himanshu is 98121xxxx. Some days ago, he had morphed the nude photo of one Sainath R/o Hyderabad and sent the same to him and he had asked for money on the pretext of loan recovery. On searching Kapil Kumar, one Redmi mobile phone and one Apple 11 phone 11 mobile phone having sim no.99969xxxx were recovered from him. The same were taken into police possession. Thereupon, the above mentioned FIR No.391 dated 26.12.2024 u/s 308(2), 351(2) BNS (Later on added Section 61(2) BNS and 67 IT Act) was registered at P.S. Cyber Crime East, Gurugram.”

4. Counsel for the petitioner submits that he would have no objection in case any stringent conditions this Court might put upon the petitioner and in case, petitioner repeats the offence, where the sentence prescribes 07 years or more, he has no objection if the State files an application for cancellation of bail. He further contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

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

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

“7. xxx xxx

iii. That the role of the petitioner Kapil Kumar in the present case is that he along with co-accused Himanshu Saini, used to obtain the data of the persons who had taken the loans from Flexi Loans app. The petitioner used to morph the photos of the said persons with objectionable photos and used to blackmail them for unauthorised recovery of loans.

iv. That the evidence against the petitioner is that he was apprehended by the police when the raid was conducted at U-Block, DLF Phase-III, Gurugram upon the information obtained from I4C portal. The petitioner had admitted his guilt at the time of raid and also during investigation.”

REASONING:

7. There is sufficient prima facie evidence connecting the petitioner with the alleged crime. However, pre-trial incarceration should not be a replica of post-conviction sentencing. As per paragraph 7 of the bail petition, the petitioner has been in custody since 26.12.2024. As per the custody certificate dated 02.07.2025, the petitioner's total custody in this FIR is 06 months and 06 days. Given the penal provisions invoked viz-a-viz pre-trial custody, coupled with the prima facie 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.

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 may 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. 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.

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

(ANOOP CHITKARA)
JUDGE

15.07.2025
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.