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

CRM-M-37164-2025 (O&M)

Date of decision: 21.07.2025

Abhishek Sagar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rajesh Gupta, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No.05 dated 08.01.2025 under Sections 318(4)/319(2) of BNS (Sections 61(2)/241 of BNS and Section 66D of IT Act added later on) registered at Police Station Cyber Manesar, Gurugram.

Summarily, the facts of the case are that on 06.01.2025, the complainant received a call in the evening from a person impersonating himself as Commissioner of Crime Branch Delhi and he digitally arrested the complainant and his wife and demanded money from them. Thereafter, out of fear, the complainant has transferred Rs.4 lakh in the Bandhan Bank account and a sum of Rs.10 lakh in the Yes Bank account by way of RTGS. After realizing the cyber fraud, the complainant immediately informed the matter to 1930 helpline and requested for action and return of his money. During the course of investigation, it was found that the Yes Bank account was in the name of accused-Anshu Chaudhary and it was found that her account was got opened by her brother Ravin Kumar. Thereafter, Ravin Kumar was arrested and made



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a disclosure statement that after opening the account in the name of his sister, Anshu, he handed over the account kit to co-accused Amjad Malik. Thereafter, Amjad Malik was arrested and in his disclosure statement he stated that he further sold the account kit to the accused/petitioner, who further in association with co-accused-Sunny, committed the offence and thus, the instant case.

Learned counsel for the petitioner *inter alia* contends that the petitioner has been falsely implicated in the present case and as per the case set up by the prosecution, the petitioner has not induced the complainant. Further, the petitioner is not the beneficiary of the alleged fraud. The petitioner has no connection with the bank account involved in the FIR (*supra*). The main accused is Anshu Chaudhary, who has been granted the concession of regular bail by the learned Judicial Magistrate 1st Class, Gurugram (Annexure P-2). Further, the petitioner has been nominated as an accused on the basis of disclosure statement made by co-accused, Amjad Malik which has no evidentiary value in the eyes of law as the statements recorded by the police under Section 67 of NDPS Act would be hit by Sections 25 and 26 of Indian Evidence Act. The petitioner has suffered incarceration of more than 05 months. Investigation of the case is complete. The petitioner is having clean antecedents and is not involved in any other case.

Learned State counsel has filed the custody certificate of the petitioner and *per contra* opposes the prayer for grant of regular bail to the petitioner on the ground that complicity of the petitioner is duly established as he has played an active role in committing the cyber crime along with the co-accused, as such, he does not deserve any leniency by this Court. However, he could not controvert the fact that the investigation of the case is complete and



till date out of total 11 PWs, none has been examined.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

"6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other."

Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner is behind the bars since 03.02.2025. Investigation is complete. The final report under Section 173 Cr.P.C. was presented before the concerned Court and trial of the case has not made much progress as out of 11 prosecution witnesses, none has been examined so far. The culpability, if any, would be determined at the time of trial. No useful purpose shall be served by further detention of the accused/petitioner. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

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In view the above, the present petition is allowed. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner-Abhishek Sagar, is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)
JUDGE

21.07.2025*Neha*

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No