IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

229 **CRM-M-48148-2025**

Date of decision: 04.09.2025

Sakir

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sarfaraj Anjum Mor, Advocate for the petitioner.

Mr. Deepak Grewal, DAG Haryana.

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SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.04 dated 25.02.2025, registered for the offences punishable under Sections 318(4), 61(2), 238 of BNS, 2023 at Police Station Cyber Crime Mahendergarh.

2. The gravamen of the FIR in question pertains to an incident in which the complainant namely Brahm Prakash, son of Sh. Gajanan, resident of village Koriawas, Narnaul, District Mahendergarh alleged that on 15.02.2025, while he was watering the fields, received a phone call on his mobile number. The caller introduced himself as the complainant's acquaintance and informed him that one of his associates was admitted in a hospital. The caller further stated that his hospital fees could not be paid from his own account and that the amount would be transferred into the complainant's account and requested the complainant to make the payment. Thereafter, the complainant received a message indicating that the money

had been credited to his account. Believing the words of the caller, the complainant transferred a total of Rs.90,000/- from his AU Bank account linked to his mobile number to the caller mobile number and some other numbers as instructed. However, upon checking the bank account later, the complainant realized that no money had actually been credited. Instead, the said amount had been debited from his account. When the complainant tried to contact the caller for clarification, he neither answered the calls of the complainant nor responded and later switched off his phone. Realizing that he had been cheated, the complainant immediately lodged a complaint on the cybercrime helpline number 1930. Thereafter, the complainant submitted a written complaint to the police station alleging therein that an unknown person, by impersonating as his acquaintance and by fraudulent misrepresentation had cheated him of Rs.90,000/- and the instant FIR came to be registered.

3. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the instant case. A bare perusal of the FIR would show that the petitioner has not been named therein. Learned counsel has further submitted that the complainant has alleged that on 15.02.2025, while working in his fields, he received a call from one mobile number and was duped by transferring a sum of Rs.90,000/- from his AU bank account to the said number and other accounts. According to learned counsel, the name of the petitioner does not figure in the FIR and he has been implicated only on the basis of the disclosure statement of co-accused. Furthermore, neither any direct role of the petitioner has been established nor has any recovery been effected from him. According to

learned counsel, the challan has already been submitted and charges have been framed on 18.07.2025 and nothing remains to be recovered from the petitioner. It has been argued that the petitioner has been in custody since 30.04.2025 and keeping him further incarcerated would serve no useful purpose particularly when the trial is likely to take long time. On the basis of aforesaid submissions, the grant of instant petition is entreated for.

4. *Per contra,* learned State counsel has opposed the present petition by arguing that the allegations raised against the petitioner are serious in nature. Learned State counsel has submitted that during the course of investigation, it was revealed that a part of the cheated amount i.e. Rs.19,000/- was credited into the bank account of the petitioner bearing No.20382834418, linked with the mobile number of the petitioner. This fact, by itself, establishes that the petitioner was a beneficiary of the fraudulent transaction and directly involved in the commission of the offence. Learned State counsel has urged that the gravity of the offence, coupled with its growing menace in the Society requires a strict approach by the Court. It has been further submitted that although the challan has been filed and charges have been framed, the trial is still at its nascent stage. Grant of bail at this stage would create a real apprehension that the petitioner may tamper with the remaining witnesses. Furthermore, learned State counsel has submitted that the economic offences, particularly those involving cyber fraud and cheating are to be treated strictly since they erode public trust and cause widespread harm to innocent citizens. On the basis of these submissions, the dismissal of the instant petition is prayed for.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. The grant of bail falls within the discretionary domain of the court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the court must evaluate factors such as the existence of prima facie evidence implicating the accused, the nature and gravity of the alleged offence, and the severity of the likely sentence upon conviction. The court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated, and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing, and overall conduct of the accused play a crucial role. Furthermore, the court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490,*** relevant whereof reads as under:

> *14. It is well settled that the matters to be considered in an application for bail are (i)whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused;(vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see* ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR***

(Criminal) 377 (SC) :2001(4) SCC 280 *and* ***Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179****). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in* ***Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528*** *:"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*

a. The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

b. Reasonable apprehension of tampering with the witness or apprehension ofthreat to the complainant.

c. Prima facie satisfaction of the ***court*** *in support of the charge. (see* ***Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 andPuran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338.****"*

This Court also in specific terms held that :

"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High ***Court*** *has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for*

enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."

In ***Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143,*** *this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

7. Indubitably serious allegations have been levelled against the petitioner which relate to an online financial fraud wherein the complainant was duped of a sum of Rs.90,000/- on 15.02.2025 by unknown persons impersonating as his acquaintance. Though the petitioner was not initially named in the FIR but during the course of investigation it was revealed that a sum of Rs.19,000/-, being part of the cheated amount, was credited into the bank account of the petitioner. This fact stands verified by the learned State counsel and hence the petitioner cannot claim that he has been falsely implicated into the FIR in question at this stage. The gravity of the offence cannot be minimized as such frauds are increasingly rampant and cause significant financial as well as psychological distress to innocent victim. Furthermore, the economic offences, particularly those involving financial fraud and cheating constitute a distinct category of crime and must be viewed with great seriousness. It is a settled law that the economic offences

are of serious nature and require a different approach while considering a petition for bail.

8. The contention of the petitioner that he has been implicated on the basis of disclosure statement of co-accused is a matter of defence and can only be adjudicated upon during the course of trial. At this stage, the alleged recovery shown from the petitioner coupled with the nature of allegations *prima facie* points towards his complicity. Thus, the claim of the petitioner that he has been implicated falsely on the basis of disclosure statement cannot be accepted at this stage. In the considered opinion of this Court, the petitioner is not a stranger to the transaction but a recipient of part of the fraud amount, which *prima facie* indicates his involvement.

9. It is also not disputed that the trial is still in progress and charges have been framed against the petitioner on 18.07.2025. However, the gravity of the offence, the systematic manner of cheating coupled with the fact that the petitioner has been shown to be a beneficiary of the defrauded amount weigh heavily against the petitioner. The argument that he was not named in the FIR also does not carry much weight once subsequent investigation has disclosed his role. Furthermore, the cyber frauds are on the rise and the Courts cannot be oblivious to the fact that such offences erode trust in digital transactions, which form the backbone of modern economy. The larger societal interest must also be kept in mind while considering bail in such cases. At this stage, releasing the petitioner on bail may hamper the trial and prejudice the case of the prosecution.

10. The grant of bail falls within the discretionary domain of the Court; however, such discretion must be exercised in a judicious and

principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail at this stage.

11. In view of above ratiocination, it is directed as under:

(i) The instant petition, being devoid of merit, is hereby dismissed at this stage.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

September 04, 2025
Ajay

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