

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54903-2024
Reserved on: 06.03.2025
Pronounced on: 19.03.2025

Shashikant Aravind Mule ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.D.S.Jattana, Advocate
for the petitioner.

Mr. Sukhdev Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
14	15.09.2024	Cyber Crime, Rupnagar	318(4), 336(3), 340(2), 61(1) of BNS, 2023 and 66 of the Information Technology Act, 2000

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.
2. The petitioner has not disclosed criminal antecedents; however, the representing counsel states on instructions that the accused has no criminal antecedents.
3. The facts and allegations are being taken from the status report filed by the State, which reads as follows:

“2. That in compliance thereto, it is respectfully submitted that the factual matrix pertaining to present case is that, complaints dated 29.07.2024 and 31.07.2024, were received at Police Station Cyber Crimes, Rupnagar, through National Cybercrime Reporting Portal (NCRP-1930). The complaints were moved by complainant-Hem Raj son of late Nand Lal, resident of H.No.1280, near Rama Mandir, Rupnagar, wherein it was averred by him that he had received several calls from the company named Mind Stay and they told him about the money investment plans and that they will give him proportionate share of profit every month for the invested mount in the company. It was further averred by the complainant-Hem Raj in his complaints that the company employees had assured him that they would give bank guarantee of Bank of India, to him and accordingly, relying upon the assurance of the employees of the company, complainant-Hem Raj invested Rs.10,000,00/- on 17.05.2024, Rs.5,000,00/-on 17.06.2024 and Rs.5,000,00/- on

04.07.2024 in the company. It was further averred by the complainant-Hem Raj in his complaints that Bank Guarantee purportedly issued by Bank of India branch Fatiyapur, handed over to him by the company, was verified by him from Bank of India Branch Rupnagar, however, on verification, it was found to be forged and fabricated. The complainant-Hem Raj requested to take action against the company.

3. That it is respectfully submitted that the aforementioned complaints moved by the complainant-Hem Raj were thoroughly inquired by Inquiry Officer of Cyber Crimes Police Station, Rupnagar, and during inquiry it was revealed that the complainant-Hem Raj had received a message on his whatsapp Number 9988XXXXX in 27.02.2024 from whatsapp Number +919900XXXXX and the complainant was prompted to invest in the Mindstay Assets Management Pvt. Ltd. #1856/15, 20th Cross, 21st Main Road Vijayanagar, Bangalore And the investor will get 3 to 4 percent return / profit per month. The complainant-Hem Raj was also sent PAN Card and Registration Certificate of the company on his whatsapp number on different dates.

4. Thereafter the link of whatsapp group was sent to the complainant and after the complainant-Hem Raj clicked the same, he joined the group of the company, which had 700 members. It was further revealed that in this whatsapp group the account No.50200054937734 of HDFC bank, IFSC Code HDFC0000075 was sent and complainant-Hem Raj transferred the amount of Rs.10,00,000/- in the said account. It is further revealed during inquiry that the complainant-Hem Raj received soft copy of Bank Guarantee of Rs.10,00,000/-purportedly issued by Bank of India, through whatsapp No.+919945XXXXX and from the email of the company and through speed from the company forwarded by Chinmoy, the Senior Officer of the company and whatsapp number of Chinmoy was also revealed as +918240XXXXX. It is further revealed during inquiry that complainant-Hem Raj received Rs.29,333/- in his HDFC account from the ICICI Bank account No.233405500344 and when complainant got assured that he had received handsome amount of profit of his Rs.10,00,000/-invested, then complainant-Hem Raj invested Rs.5,00,000/- more on 17.06.2024, and Rs.5,00,000/- on 04.07.2024 in the account No.50200054937734 of HDFC bank belonging to company and complainant-Hem Raj received papers of Bank Guarantee of Rs. 10,00,000/- and on 01.07.2024, complainant-Hem Raj received Rs.6,000/- in his HDFC Bank account from the ICICI Bank account No.233405500344, whereas, Rs.46,000/- was required to be sent to the complainant being profit.

5. It was further revealed during inquiry that when complainant-Hem Raj asked for his remaining amount of Rs.40,000/- being profit of that month, then he was removed from the whatsapp group. It is further transpired that the Bank Guarantee bearing No.BOI15794/1926 dated 09.05.2024 and BOI17375/2107 dated 12.07.2024 for Rs. 10,00,000/- each were never issued by the Bank of India branch Fatiyapur, District Hardoi, (Uttar Pradesh) and the same was forged and fabricated.

6. That during further inquiry it was revealed that Petitioner-Shashikant Aravind Mule, Gadekar Sravanthi and Bhaganna Mahadea Fulari Krishna Fulari were directors of the company, Raghunath Raddy and Pardeep were CEO of the company and Chinmoy and Sumit Ghosh were agent in the company. It was further revealed that all the aforementioned accused had hatched a conspiracy and got registered Mindstay

Assets Management Private Limited and started asking the 3 general public to invest amount in their company on the pretext of giving higher monthly rate of interest. It was further revealed during inquiry that the amount of Rs.10,00,000/- deposited by the complainant in HDFC Bank Account No.50200054937734 was further transferred to ICICI Bank Account No.233405500344. It is further submitted that Notices under Section 94 of BNSS were sent upon the Petitioner-Shashikant Aravind Mule and others, however, they failed to join the investigation, therefore, the Inquiry Officer concluded that accused have duped the complainant-Hem Raj by sending initial amount of Rs.29,333/- by showing profit / interest of Rs.10,00,000/- of a month and by sending forged Bank Guarantee of Rs.10,00,000/- to the complainant, the accused induced the complainant-Hem Raj to invest more amount in the company and thereafter complainant-Hem Raj transferred Rs.10,00,000/- as submitted above and only Rs.6,000/- was transferred to the complainant-Hem Raj and when he asked for the proportionate amount of profit / interest then he was removed from whatsapp group by the Petitioner-Shashikant Aravind Mule and his co-accused.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that 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 status report.

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

“A. ROLE OF THE PETITIONER:

It is respectfully submitted that the Petitioner-Shashikant Aravind Mule is the Director of the Mindstay Assets Management Pvt. Ltd. It is further submitted that though the Petitioner-Shashikant Aravind Mule has contended in para No.10 of the instant petition that he has resigned from the Company on 18.06.2024, however, even if the date of resignation of the Petitioner-Shashikant Aravind Mule is considered, even then he was director of the Company till the Complainant-Hem Raj has transferred Rs.10,00,000/- and Rs.5,00,000 on 17.05.2024 and 17.06.2024 respectively, in the account of the company.

B. THE EVIDENCE AGAINST THE PETITIONER

It is respectfully submitted that there is a documentary record that the Petitioner-Shashikant Aravind Mule was a member of the whatsapp group and he was director of the company. The Complainant-Hem Raj had talked to him several times for getting his amount from the company.”

REASONING:

7. Para no.6 of the reply reveals that petitioner along with others was Director of the company. Although the Investigator's case is that they hatched a conspiracy and there were money transfers, but petitioner's stand is that he had resigned from the company and rather he was a victim of the crime. The moment he came to know about the malicious activities, he resigned by sending a registered letter dated 18.06.2024. This

stand is undisputed and given the petitioner's explicit stand of abandoning the company, the possibility cannot be ruled out that prior to that he might be unaware of the cheating in the company in which some of its Directors and agents were involved. Thus the act of resignation does probablize the petitioner's stand of possibly not knowing the real intention of the company and later on the moment he got to know, he resigned from the company.

8. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

9. The Police did not arrest the petitioner; if they intended to arrest the petitioner, it was not impossible.

10. Given the above, the penal provisions invoked 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 custodial interrogation or the pre-trial incarceration at this stage. 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.

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

12. 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)	

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

14. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and

when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. 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.

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

19.03.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.