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

CRM-M-63416-2024
Reserved on: 03.04.2025
Pronounced on: 21.04.2025

Junaid ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Yaseen Sethi, Advocate
for the petitioner.

Mr. Naveen K. Sheoran, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
43	01.09.2024	Cyber Crime Ambala, Haryana	316(2), 318(4), 319 BNS 2023

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 8 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:

> *"That as a matter of fact, the present case FIR bearing no. 43 dated 01.09.2024 was registered under sections 316(2), 318(4), 319 of BNS, 2023 on the complaint of Jaswinder Saini vide Complaint no. 31307240039000 dated 17.07.2024 which was received in the Police Station wherein the Complainant stated that, "A lady Elizabeth Daisy, who is related to accounts work and touring India, I got in touch through Facebook. Then Elizabeth Daisy talked about visiting India on her WhatsApp no. +44-7466676445 and told that she is coming to India on 15/07/2024 and will also talk about work. For this she also sent the details of the air ticket. On 15/07/2024, I received a call from the number 7627905816 saying that we are calling from Delhi Airport, a lady by the*

name of Elizabeth Daisy knows you, so she will have to pay a registration fee of 38,500/- to enter India. If she does not have Indian rupees, then you pay it. So, I sent 238,500/-dated 15/07/2009 from my HDFC Account having no. (50100341669939) via Phone Pay to "Sudesh Kumar's scanner (Beneficiary). He also gave me a receipt for this. This scanner was sent to me from mobile no. 8414092327. After some time, I got a call that Elizabeth Daisy has been caught by money laundering people because she has a cheque of 70,000 UK Pounds, so its price will be ₹ 86,900/-. 1 sent 86,900/- on 15/07/2024 to Central Bank of India 3174536100 through my friend Jatinder Verma to the account of "Sudesh Kumar". Similarly, on 15/07/2024, I sent 25,000/- in the name of hotel bill. On 15/07/2024 ₹10,000/- was sent to my HDFC A/C 50100341662239 and ₹10,000/- was sent to my Yes Bank A/c 10990200023724. Then on 16/07/2024 I got a call that to cash Elizabeth Daisy's cheque of 70,000 UK Pound, I will have to pay Income Tax, after that this lady will give you all the money, so I thought that to get my money, I made Income Tax payment of ₹1,50,000/- on 16/07/2024, 250,000/- to my friend Aman Kumar's HDFC A/C 50100683093183, ₹50,000/- to my SBI A/c 39199392036 and ₹50,000/- sent to my wife's SBI A/C 38039895257 on Sudesh Kumar's scanner. A hotel permit dated 16/07/2024 ₹15,000/- sent to my yes bank A/c 10990200023724 on Sudesh Kumar's scanner. I have been cheated of a total of 23,05,400/-. I gave this money from my savings and by borrowing from others. I am in a lot of trouble. I request you to return my money and action be taken against the accused. Yours sincerely. Thank you. Sd/-: Jaswinder Saini Mob.No. 9729907971." Hence this case. However, the detailed facts of the complaint/FIR have already been stated in para no.2(i) of the present petition and also in Annexure P-/ attached by the accused-petitioner with the present petition, hence, the contents of the same are not repeated for the sake of brevity."

4. The petitioner's counsel submits that petitioner was working as auto driver and has no concern with the present FIR and even he has not received any money. He further 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:

"……the accused-petitioner alongwith co-accused has allegedly cheated

> *the complainant online for about Rs.3,05,400/- by inducing the Complainant to pay the accused-petitioner, the money equal to 70,000/- pounds of UK. Also, accused-petitioner has not returned the money to the complainant. Since, it is a Cybercrime wherein money has been transferred to the accused-petitioner and such kind of crimes are increasing day by day which needs to be dealt-with strictly, and further which affect the society at large, so, the State of Haryana will be prejudiced in the event, if, the accused-petitioner is released on regular bail, he may tamper with the prosecution evidence and may threaten the prosecution witnesses or may flee away from the legal punishment. It is the prime duty of the State to make sincere efforts to provide justice to their citizens; hence, in this case, the accused-petitioner is liable to be prosecuted as per the provisions of law laid down for such purposes."*

REASONING:

7. Allegations against the petitioner are that he has done cyber fraud with the complainant and cheated an amount of Rs.3,05,400 from the complainant. 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 7 of the bail petition, the petitioner has been in custody since 06.09.2024. Per the custody certificate dated 02.04.2025, the petitioner's total custody in this FIR is 06 months & 27 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. 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.

12. 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.

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

14. 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.

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

(ANOOP CHITKARA)
JUDGE

21.04.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.