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

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CRM-M-734-2025
Decided on: 15.02.2025

Ashwani ...Petitioner

Versus

State of Haryana …Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ankur Malik, Advocate
for the petitioner.

Mr. Aashish Bishnoi, DAG, Haryana.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
12	19.05.2024	Cyber Crime Charkhi Dadri, District Charkhi Dadri	420 & 120-B IPC

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 18 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are taken from the translated copy of the FIR attached to the bail petition, which reads as follows:

> *"2. That facts in the present matter in succinct are that a case FIR No. 12 dated 19.05.2024 under sections 420, 120B IPC Police Station Cyber Crime, Charkhi Dadri was registered on the written complaint submitted by Abhishek son of Rakesh, resident of village Jewali, District Charkhi Dadri stating therein that he is working as labourer. Last year, in the month of September 2023, Ashin son of Amir Khan, resident of village Bhandwa, District Charkhi Dadri had approached him to get him personal loan. He had assured to get the loan sanctioned. After 2/3 days, he got a telephonic call from Ashin to come to the house of Vikram son of Puran resident of village Lad along-with Adhar Card, Pan Card and*

cheque book of his Indusind Bank account. Upon this he reached at the house of Vikram where Ashin got his signatures on some papers and Vikram took his photo from his phone and photocopies of Aadhar-Card and Pan-Card along with his signatures. One cheque was also taken from his cheque-book. Ashin told that he is depositing some rupees in his Indusind bank-account, which will automatically be withdrawn/deducted. Thereafter, he returned to his house and Ashin telephonically called him to come at Badhra. When he reached at Badhra, Ashin along with Naveen, resident of village Bhandwa, met him there. They both brought him to Badhra Court and obtained his signatures on some documents on the pretext of getting the loan sanctioned. They then took him to Grain Market Badhra and obtained his signatures on 3-4 papers and also took OTP number from his mobile phone No.xxxx8531. Few days thereafter, Ashin again telephonically called him to come at Badhra. When he reached at Badhra, Ashin and Naveen met him in a car wherein one bank employee, namely, Jitender, was also sitting. They took him in the car to bus stand of village Lad and where they took his photos and got his signatures on some documents and noted the OTP from his mobile phone. After some more days, Ashin elephonically called him to give a call to Naveen. Upon calling Naveen, he asked the complainant to come at Badhra. When he reached at Badhra, Naveen took him to HDFC Bank Badhra. His signatures were obtained on some papers in the Bank and Ashin telephonically assured him that his loan would be sanctioned. Thereafter, in the month February 2024, Naveen telephonically called him to come to his house. When he reached there, Naveen and bank employee Jitender were present there, who got photos of his Aadhar-Card, Pan-Card and got his signatures on some papers. A few days later, Ashin telephonically called again to reach at IDFC Bank, Charkhi Dadri. After reaching Dadri, Ashin gave him telephone number of Bank employee Jitender and ask to call him. When the complainant called Jitender, he came outside the Bank and took him inside Bank premises and got his signatures on some papers and one cheque. After a few days, he received cheque book and ATM Card of IDFC Bank Account No.xxxx4210 at his home. Thereafter, in the month of April 2024, he visited HDFC Bank Badhra open Bank account there, the bank employee present there told that he is already having account No.xxxx4220 and that lot of money has been transacted in said account and that since fraud amount had come in said account, said bank-account has been frozen. Upon this he telephonically called Ashin, *who asked to come on canal of village Lad. When he reached there, Ashin, Naveen and Vikram met him. Upon enquiring from Ashin how the bank account has been opened with HDFC Bank Badhra, he answered that he got said account opened for executing duplicate/fraud transactions. He assured to give some amount and asked not to disclose it to anyone. He then came to know that above mentioned Ashin, Naveen, Vikram and bank employee Jitender have conspired to make illegal transactions through bank accounts got opened by them in his name and they have thus committed cheating. Upon this instant case FIR was registered and investigation commenced."*

4. The petitioner's counsel argued that petitioner has not been named in the FIR and he has been implicated on the disclosure statement of co-accused. He further states that the petitioner is in custody since 23.05.2024 and no other case is pending against him. Counsel 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:

"5. That during investigation, as per bank account details of co-accused Naveen it has been found so far that a transaction 5.37 Crore was found to have been made. That during investigation, raids were conducted on the hide outs of accused Vikram and accused Ashin and from his office at Gurugram accused/petitioner Ashwini son of Bhupender resident of Jagram Bass (who use to work for co-accused Ashin, Vikram, Vijay and others) was arrested in the case on 23.05.2024 and confessed his involvement in crime and named co-accused Vijay Singh as one of the master mind of the above mentioned fraud stating that accused Vijay Singh operates an account in the name of Vijay OTP Group on Telegram App, which he use to circulate OTP of transactions to other co-accused. Screen shots of Vijay OTP Group were recovered from the mobile phone of accused/petitioner Ashwini and the same were taken in police possession. As per the chats of this group, accused/petitioner was found in touch through telegram messages with numerous peoples including foreigners and other co-accused. Screen shot of relevant portion of chat group is

annexed herewith as Annexure R-1 (Colly). Two mobile phones having details of bank transactions and Telegram chat were recovered from the accused/petitioner Ashwani and the same were taken in police possession. Further, from the confessional statement of petitioner Ashwini, 03 laptops, 05 ATM Cards and 02 cheque books were also recovered from the Gurugram office of the accused. As per report obtained from JMIS portal, 11 complaints are registered against the mobile recovered number from accused/petitioner Ashwini, in which a fraud of Rs. 4,43,288/- has been found to be committed."

REASONING:

7. Petitioner has cheated the complainant and there is direct evidence against the petitioner, therefore he is not entitled to bail.

8. The petitioner took advantage of the breaches, vulnerabilities, and weaknesses in the system that the Executive has put in place. Further, the lack of enforcement and absence of meritocracy boldened the petitioner and the gang members to dupe the simple and gullible people.

9. A perusal of the bail petition and the documents attached primafacie points towards the petitioner's involvement and does not make out a case for bail.

10. Given the above, the petitioner is not entitled to bail. The impact of crime would not justify bail. Any further discussions will likely prejudice the petitioner; this court refrains from doing so.

11. The petitioner's custody of around 09 months cannot be termed prolonged, given the minimum sentence prescribed for the offense.

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

13. **Petition dismissed**. All pending applications, if any, are disposed of.

(ANOOP CHITKARA)
JUDGE

15.02.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.