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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-65601-2024
Date of decision: 03.04.2025

Abhay
State of Haryana

Versus

...Petitioner
...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abhijeet Sharma, Advocate for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
114	19.10.2024	Cyber Crime, Bhiwani	318(4) of BNS (wrongly written as Section 481(4) of BNS in the dismissal order of ASJ, Bhiwani (later on Sections 61 (2) & 241 of BNS were added)

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] (Earlier 438 CrPC), seeking anticipatory bail.

2. In paragraph 15 of the bail petition, the accused declares that he has no criminal antecedents.

3. The facts and allegations are being taken from the status report dated 15.02.2025 filed by the State, which reads as follows:

“2. That the brief facts of the case are that that the present case has been registered on the complaint moved by complainant Vikash wherein it has been alleged that he has been resident of Ward No.03, near Bada Gurudwara, Bawani Khera, District Bhiwani and got credit card No.555447469xxxxx from SBI Bank in October-2024. On 08.10.2024 he received call on his mobile number 89504xxxx from mobile number 73498xxxx who told about his credit card CPP plan to have been active, for which he will have to pay a charge of Rs.4500/- per month and to close the same, he would have to send SBI link to his mobile on which he gave request that his plan be closed. He shared his details on the SBI link that came on his WhatsApp after which he received message on his mobile number that Rs.46,056.69/- had been deducted from his credit card. Thereafter, he lodged complaint No.21310240043303 on the online cyber portal. The link received on his WhatsApp No.89504xxxx got deleted



automatically. Thereafter, he blocked his credit card through SBI helpline and SBI issued another credit card 555447469xxxxxx. He prayed for taking action against the culprits and got recovered his amount of Rs.46,056.69/-. On this complaint present case was registered.”

4. The petitioner’s counsel voluntarily submits that in case, this Court grants bail to the petitioner, he undertakes to keep only one sim card that too which is linked with his Aadhar Card and will not take any new prepaid sim card during the pendency of the trial.

5. 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 his family.

6. The State’s counsel opposes bail and refers to the status report.

7. It would be appropriate to refer to the following portions of the status report dated 15.02.2025, which read as follows:

“8. That the role of the present petitioner is that he committed cheating with the complainant from whose credit card Rs.46,056.69 was withdrawn by way of sending him a Whatapp link on his registered mobile number. That during investigation it transpired to the police that fake accounts have been created in the name of Rahul and Saurabh for which no broker app has been used and Whatsapp link activation of CPP plan has been sent to the complainant and the amount shown has been credited in the account of Rahul who is a laborer and Saurabh who is a student maintained with Bank of Baroda and this amount was withdrawn from HDFC Bank account of Saurabh on 09.10.2024 regarding which CCTV footage was taken and it was seen that it was Sahil son of Kamal Singh who has withdrawn this amount. That the co-accused namely Vikas, Sahil @ Rahul and Raju Gupta suffered the name of present petitioner in their disclosure statements. By using accounts of different persons which have been created that the amount by way of deception has been taken away by the accused who have been acted in criminal conspiracy with each other and if the investigation is not conducted from present petitioner Abhey the important link in chain would be broken. The amount has been withdrawn from the credit card of the complainant and it is only during the investigation the fact of this fraud being committed by the accused in criminal conspiracy by way of use of digital technology has transpired and it is thus essential that present petitioner Abhey investigated so that any further crimes which can be committed by him can also be prevented and also involvement of other persons who are acting fraudulently in this common purpose so as to cheat innocent people can also be conducted



from. That the allegations leveled against the present petitioner Abhey being of serious nature and the present petitioner Abhey being the main accused, In this way the present petitioner Abhey is not entitle for any relief prayed for.”

REASONING:

8. Given the amount involved, role attributed to the petitioner and voluntarily statement that petitioner shall surrender all the prepaid sim cards issued in his name except one sim card which is linked with his Aadhar Card within 15 days. However, the petitioner may apply for postpaid sim card in accordance with the permissible rules, as such, he is entitled to bail.
9. 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.
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.
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 Ilaka 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. 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.

16. 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.

17. 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.

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

19. 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.

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

(ANOOP CHITKARA)
JUDGE

03.04.2025/Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.