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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 205/2025**

HEMLATA PATHAK

.....Petitioner

Through: **Mr. Ashok Thagal, Advocate**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Amit Ahlawat, APP for the State
with SI Mohit Malik, PS EOW, Delhi
Police**

+ **BAIL APPLN. 274/2025**

YASH VARDHAN PATHAK

.....Petitioner

Through: **Mr. Ashok Thagal, Advocate**

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: **Mr. Amit Ahlawat, APP for the State
with SI Mohit Malik, PS EOW, Delhi
Police**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.03.2025

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1. The present applications filed under Section 483 of the Bharatiya
Nagarik Suraksha Sanhita, 2023¹ (formerly Section 439 of the Code of

¹ "BNSS"



Criminal Procedure, 1973²) seeks regular bail in proceedings arising from FIR No. 93/2022 registered under Section 409/406/420/120B IPC of the Indian Penal Code, 1860³ at P.S. EOW, Delhi.

2. The case of the prosecution is as follows:

2.1 A multi-victim scam case was filed at PS EOW, New Delhi, based on the complaints of Sh. Virender Singh and 35 others. They alleged that they were deceived by Ankur Pathak, Hemlata Pathak (Applicant in BAIL APPLN. 205/2025), Suresh Chand Pathak, Yash Vardhan Pathak (Applicant in BAIL APPLN. 274/2025), and others, who promised high returns on their investments.

2.2 The majority of the complainants and the accused persons, including the Applicants, are from the same locality and are well-acquainted with each other. The accused have been running investment schemes since 2017. Under the scheme offered, victims were required to invest Rs. 1000/- per month for 12 months in Avighna India Financial Services Pvt. Ltd. (the company of the accused persons), with the promise of receiving Rs. 18,000/- upon maturity. Initially, the victims received higher returns on their investments, until September 2020. This led to the accused gaining the trust of the public. However, the accused persons then launched two new batches for the period of September 2020–2021 and March 2021–September 2021, raising a total of Rs. 3 crores from the victims through investments in their companies namely (i) M/s Avighna India Financial Services (ii) Avighna India Fisheries Pvt. Ltd. (iii) Avighna India Nidhi Ltd.

2.3 Subsequently, the accused persons began acting dishonest, offering

² “Cr.P.C.”

³ “IPC”



excuses to evade returning the promised amounts and their respective returns. Eventually, they fled from their known residence at S-43A, 1st Floor, School Block, Shakarpur, Delhi, taking the victims' money with them. The Complainants further stated that approximately 95% of the payments were made in cash, with the remainder transferred through bank transactions. As a result, the accused absconded with the invested funds, which totalled several crores of rupees. Following this, a case was registered, and an investigation was launched.

2.4 During the investigation, records from the Registrar of Companies for the alleged companies M/s Avighna India Financial Services, Avighna India Fisheries Pvt. Ltd, and Avighna India Nidhi Pvt. Ltd were obtained. Two of these companies, Avighna India Fisheries Pvt. Ltd and Avighna India Nidhi Pvt. Ltd, were established by the accused persons, with their registered address being S-43A, 1st Floor, School Block, Shakarpur, Delhi, which also serves as their residential address. However, the company M/s Avighna India Financial Services is not registered with the ROC on a pan-India basis. The accused persons misled the public by encouraging them to invest in a non-existent company, issuing passbooks in its name to deceive potential investors.

2.5. Details of these companies are as follows:

(a) Avighna India Nidhi Ltd was incorporated on 4th September, 2017. Accused Ankur Pathak, Yash Vardhan Pathak (Applicant in BAIL APPLN. 274/2025) and Mrs Hemlata Pathak (Applicant in BAIL APPLN. 205/2025), were the directors since its incorporation.

Director Name	Appointment Date	Cessation Date
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Ankur Pathak	4 th September, 2017	--
Yash Vardhan Pathak	4 th September, 2017	--
Mrs Hemlata	4 th September, 2017	--

(b) Avighna India Fisheries Pvt Ltd was incorporated on 05th March, 2020. Accused Ankur Pathak, Yashvardhan Pathak (Applicant in BAIL APPLN. 274/2025), Hemlata Pathak (Applicant in BAIL APPLN. 205/2025), Suresh Chandra Pathak and Hans Kumar were the directors since its incorporation.

Director Name	Appointment Date	Till date
Ankur Pathak	05 th March, 2020	Till date
Yash Vardhan Pathak	05 th March, 2020	Till date
Mrs Hemlata	05 th March, 2020	Till date
Suresh Chandra Pathak	05 th March, 2020	Till date
Hans Kumar	05 th March, 2020	Till date

2.6 During the course of investigation, Notice U/s 41A Cr.P.C. were served upon accused persons namely Ankur Pathak, Suresh Chand Pathak, Hemlata Pathak and Yashvardhan Pathak, multiple times, for joining the investigation. However, they did not comply and absconded from all their available addresses. All out efforts were made to trace the accused persons but to no avail.

2.7 During the course of investigation, it has surfaced that the accused persons namely Ankur Pathak and his father Suresh Chand Pathak were arrested by Rajasthan Police in case FIR No. 678/2023 U/s 406/420/506 IPC & 3(1)(r) & (s) SC/ST Act registered at PS Sadar, Alwar, Rajasthan. Documents regarding the arrest of the accused persons were obtained from



the IO of the Case FIR No. 678/23 PS Sadar, Alwar, Rajasthan. Thereafter, accused persons were formally arrested in the present case on 04th October, 2023.

2.8. On 18th November 2023, on an application, the Trial Court issued Non-Bailable Warrants (NBW) against the accused, Hemlata Pathak and Yashvardhan Pathak (the Applicants). However, despite all possible efforts, the warrants could not be executed and thereafter, the Applicants were declared as proclaimed offenders *vide* order dated 05th March, 2024.

2.9 Subsequently, through technical surveillance, the Applicants namely Hemlata Pathak and Yashvardhan Pathak were arrested on 15th July, 2024 in the present case from Arjunganj, Lucknow, U.P. Accordingly, Section 174A IPC was added in the present case.

3. Counsel for the Petitioner seeks bail pressing the following grounds:

3.1 The Applicants have been falsely implicated and no *prima facie* case is made out. The Applicants are a victim of conspiracy of Varun Kumar (co-accused) and his associates who collected the amounts from the victims in their name. The son of Hemlata i.e., Ankur Pathak filed a complaint in Ct. case no. 51/2023 against Varun Kumar, which is pending consideration before the Trial Court. The Applicant and her son have also moved a written complaint against Varun Kumar to the concerned authorities.

3.2. The Applicant-Hemlata in BAIL APPLN. 205/2025 is 58 years old woman suffering from various ailments. The Applicant-Yash Vardhan Pathak in BAIL APPLN. 274/2025 is also suffering from mental illness.

3.3. The Applicants have been in judicial custody since 15th July, 2024. The investigation is complete and the chargesheet has been filed. The Trial is at the initial stage and is expected to take a long time.



3.4. The Applicants have clean antecedents and had no intention to evade the arrest but were only taking recourse to the judicial remedies. In the bail application no. 3641/2023 *vide* order dated 12th March, 2024, this Court granted bail, to the applicant therein, despite the fact that he was declared as Proclaimed offender and the facts and circumstance quite similar to those of the Applicants in the present applications.

3.5. The main accused Sh. Ankur Pathak and other co-accused Suresh Chand Pathak have already been granted bail by this Court *vide* order dated 22nd November, 2024. Thus, the Applicants are entitled to grant of bail on the grounds of parity.

4. Mr. Amit Ahlawat, APP for the State, strongly opposes the bail applications. He acknowledges that the co-accused Ankur Pathak and Suresh Pathak, the family members of the Applicants, have been granted bail but emphasises that those Applicants were in custody for nearly 13 months. He further submits that the Applicants never joined the investigation and were declared as Proclaimed Offenders on initiation of proceedings under Section 82 and 83 of Cr.P.C and there is a flight risk. The Applicants are also involved in two other similar cases and thus have past criminal antecedents.

5. As regards the specific role of the Applicant is concerned, Mr. Amit Ahlawat, APP for the State, submits that there is sufficient material to implicate the Applicants herein.

6. The Court has considered the facts and the submissions advanced. It is well established through catena of judgments by the Supreme Court that the object of granting bail is neither punitive nor preventative. The primary aim sought to be achieved by bail is to secure the attendance of the accused



person at the trial.⁴ The Applicants Hemlata Pathak and Yashvardhan Pathak have been in judicial custody since 15th July, 2024 and 16th July, 2024 respectively. The chargesheet has been filed and the trial is at the stage of charge. It is not the case of the prosecution that the Applicants are required for further investigation. Thus, no purpose would be served by prolonging the Applicants' incarceration. Additionally, the other co-accused have been granted bail on 22nd November, 2024 by this Court. In light of the same, the Applicants are entitled to bail on the ground of parity.

7. It is also relevant to note that the Applicant-Hemlata in BAIL APPLN. 205/2025 is 58 years old woman suffering from various ailments. It is pertinent to note that the Bharatiya Nagarik Suraksha Sanhita, 2023 provides for special consideration to be accorded to the factors of gender, sickness and infirmity of the accused person while considering bail applications.

8. As regards the apprehension of the State of the Applicant being a flight risk, in the opinion of the Court, the same can be addressed by imposing stringent conditions.

9. The Applicants are, therefore, directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- each, with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty MM, on the following conditions:

a. The Applicants shall cooperate in any further investigation as and when directed by the concerned IO;

⁴ See also: *Sanjay Chandra v. CBI*, (2012) 1 SCC 40; *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51.



- b. The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
 - c. The Applicants shall under no circumstance leave NCT of Delhi without the permission of the Trial Court;
 - d. The Applicants shall appear before the Trial Court as and when directed;
 - e. The Applicants shall provide the address where they would be residing after their release and shall not change the address without informing the concerned IO/ SHO;
 - f. The Applicants shall, upon release, give their mobile numbers to the concerned IO/SHO and shall keep their mobile phone switched on at all times.
 - g. The Applicants shall report to the concerned PS on fourth Friday of every month;
10. In the event of there being any FIR/DD entry / complaint lodged against the Applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
11. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.
12. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MARCH 18, 2025/ab