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

\+ BAIL APPLN. 268/2025 & CRL.M.A. 12845/2025

HESHAM REHMAN .....Petitioner

Through: Md. Farman, Mr. Salman Khan and Mohd. Nawazish, Advocates.

versus

THE STATE GOVT OF NCT OF DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP for the State. Mr. Mohit Ahuja, Advocate for Complainant.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 13.05.2025

1. The present petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023[1] (corresponding to Section 439 of the Code of Criminal Procedure, 1973[2]) seeks grant of regular bail in FIR No. 214/2023 dated 11th August, 2023, under Sections 419 and 420 of Indian Penal Code, 1860[3], registered at P.S. Special Cell (Delhi). Pursuant to the investigation, a chargesheet has also been filed against the Applicant under Sections 419, 420 and 120-B of the IPC.

2. Briefly, the case of the prosecution is as follows:

2.1. On 30th September, 2022, a complaint was received in IFSO, Special Cell, Dwarka, and was recorded *vide* DD No. 164/22. The Complainant, Mr. Neeraj Kumar Burman, alleged that he was induced into investing in an

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[1] "BNSS"
[2] "Cr.P.C."
[3] "IPC"

online platform named 'BITXOXO' (bitxoxo.com), which purported to facilitate cryptocurrency trading. The Complainant claimed that he came into contact with the two accused persons, namely Hesham Rehman (the Applicant) and Mohammed Rezwan, who were the directors of BITXOXO Bitcoins Online Pvt. Ltd. The accused are alleged to have misrepresented their business as a legitimate enterprise, possessing the requisite registration under the Companies Act and other statutory approvals.

2.2 The Complainant alleged that the accused persons induced him to invest in the platform by showcasing their clientele to include well-known industrialists and film personalities, and by presenting financial projections to suggest that his investments in Bitcoin would appreciate rapidly. On the strength of these representations, the Complainant invested a sum of ₹5,28,05,000/- through the BITXOXO platform between 12th April, 2017 and 19th February, 2018. An E-wallet was also issued to him for executing cryptocurrency transactions. However, he claims that every attempt made by him to sell or purchase Bitcoin failed. When he raised these concerns with the accused company, vague assurances were given, and shortly thereafter, the accused allegedly became untraceable, having shut down their offices and disconnected their phones.

2.3 Upon conducting a preliminary enquiry, the FIR No. 214/2023 was registered in P.S. Special Cell, under Sections 419 and 420 of IPC.

2.4 During investigation, a notice under Section 91 Cr.P.C. was issued to Punjab National Bank to verify the Complainant's transactions. The bank confirmed that a total of ₹5,28,05,000/- was transferred from the Complainant's account to two bank accounts of the accused company, maintained with ICICI Bank and IndusInd Bank respectively, between 12th

September, 2017 to 17th October, 2017. It was further revealed that significant sums were diverted from the company's accounts to two other entities - Pranjal Enterprises and Indra Traders, Mumbai.

2.5 The investigation revealed that the registered offices of the accused company in Hyderabad and Warangal (Telangana) had been shut since 2018. To determine the true beneficiary of the company's accounts, BSNL was asked to provide subscriber information linked to the phone number registered with the bank. As per BSNL's reply, the number was registered in the name of the Applicant.

2.6 Subsequently, the location of the Applicant's phone was traced to Kanpur and on 26th September, 2024, a notice under Section 41A of Cr.P.C. was served on the Applicant at the residence of his in-laws.

2.7 On 27th September, 2024, the Applicant joined investigation at P.S. Special Cell, Dwarka, however, he was found to be non-cooperative. It was also discovered that he has prior involvements in two other similar cases of cheating and financial fraud. As such, he was arrested the same day.

2.8 The Applicant's specimen signatures were obtained and *prima facie* matched with those on the incorporation documents of the accused company. These have also been sent to the Regional Forensic Science Laboratory for expert opinion, which is currently awaited.

2.9 As the co-accused, Mohammed Rezwan, remains untraceable, a Non-Bailable Warrant was issued against him on 4th December, 2024. Since the warrant could not be executed, proceedings under Section 82 Cr.P.C. were initiated and a Look Out Circular was also issued to prevent his possible flight from the country.

2.10 Upon conclusion of investigation, a chargesheet under Sections 419, 420, and 120-B IPC has been filed against the Applicant and the accused company. The Applicant's bail application was rejected by the Trial Court on 8th January, 2025.

3. Mr. Md. Farman, counsel for the Applicant, urges the following grounds for seeking bail:

3.1 The Applicant has been falsely implicated in the present case. The Complainant, by his own admission, was issued an E-wallet by the accused company and successfully received Bitcoins against the funds he transferred. This establishes that the accused company fulfilled its obligations as a cryptocurrency trading platform in accordance with its terms of service. The alleged transfer of Bitcoins to the Complainant's E-wallet negates the foundational claim of misappropriation or deceit.

3.2 The trading platform provided the Complainant with a unique Login ID, password, and OTP credentials linked to his E-wallet. These credentials were exclusive to the Complainant, and no transaction could have been executed without his active participation. Accordingly, the accused company had no role in executing or controlling the Complainant's individual transactions.

3.3 The Complainant actively used the platform for more than a year and conducted multiple transactions, including the purchase, sale, and withdrawal of over 114 Bitcoins using his Login credentials. These transactions are substantiated by blockchain transaction receipts annexed with the present bail application. In such circumstances, it is evident that the accused company merely facilitated trading and bore no liability for the Complainant's inability to access or utilise the platform at a later stage.

3.4 Emphasis is placed on the substantial delay of nearly five years in lodging the FIR. As per the Complainant's own version, the last transaction occurred in February 2018, whereas the FIR was lodged only on 11th August, 2023. This unexplained delay, it is urged, casts doubt on the *bona fides* of the allegations.

3.5 The prosecution's claim that a notice under Section 35(3) of the BNSS (corresponding to Section 41A Cr.P.C.) was served prior to arrest is also challenged. It is submitted that no such notice was, in fact, served, and that this procedural lapse renders the arrest unlawful, thereby entitling the Applicant to bail.

3.6 As to the two prior FIRs referred to by the prosecution, both of them stood quashed by the Telangana High Court on 11th April, 2023, pursuant to settlement between the parties. Apart from the present case, the Applicant has no surviving criminal antecedents. He has remained in custody over seven months and with the investigation complete and chargesheet filed, his further detention would serve no useful purpose.

4. On the other hand, Mr. Amit Ahlawat, APP for the State and Mr. Mohit Ahuja, counsel for Complainant, jointly oppose the present bail application on the following grounds:

4.1 The Applicant, along with the co-accused, orchestrated a large-scale financial fraud amounting to ₹5.28 Crores by operating a fictitious cryptocurrency trading platform under the name 'BITXOXO'. The prosecution contends that the platform was used as a facade to lure investors through misrepresentation, fraudulent inducements, and forged corporate credentials. The Complainant was persuaded to invest based on these misrepresentations. The transactional records obtained from ICICI Bank and IndusInd Bank confirm the receipt of the said amount in the bank accounts of the accused company, accounts which, as per the investigation, were opened and operated by the Applicant and co-accused. The existence of a direct money trail linking the Applicant to the defrauded funds reinforces the gravity of the charges.

4.2 The E-wallet issued to the Complainant for trading on the accused platform was, according to the investigation, deliberately rendered non-functional, thereby frustrating the Complainant's ability to execute any transactions. This reflects a clear intention to cheat and constitutes criminal breach of trust.

4.3 The Applicant has a demonstrated pattern of fraudulent conduct. His name figures in two other FIRs of similar nature registered in Warangal, Telangana, relating to financial scams, thereby indicating habitual behaviour. Although those matters were later compromised, the pattern of conduct and *modus operandi* remain relevant for assessing the Applicant's propensity. Additionally, it is pointed out that the Applicant was evasive during the investigation and failed to cooperate when initially summoned. This necessitated his custodial interrogation.

4.4 The investigation has also revealed that vital digital infrastructure, comprising transactional data and back-end hardware associated with the 'BITXOXO' platform, was either destroyed or has gone missing under suspicious circumstances. This not only impedes recovery efforts but also suggests a deliberate attempt to erase evidence and obstruct the investigative process.

4.5 The co-accused, Mohammed Rezwan, continues to evade arrest, and coercive measures such as a Non-Bailable Warrant and Look Out Circular have been issued against him. Given the serious nature of the offence, the substantial financial loss caused to the Complainant, the destruction of evidence, the Applicant's ties with the absconding co-accused, and his past involvement in similar cases, the State expresses a strong apprehension that the Applicant, if released, may abscond, tamper with evidence, or influence witnesses.

5. The Court has considered the aforenoted contentions. It is a well settled position of law that while considering a bail application, the Court has to examine several factors such as whether any *prima facie* reasonable ground is made out to believe that the accused has committed the offence, the nature and gravity of the accusation, severity of the potential punishment, risk of the accused fleeing or obstructing justice, etc.[4] At the same time, the Court must be mindful that bail cannot be denied merely on the ground that the alleged offence is serious[5] and that while deciding the bail application, a detailed examination of the evidence ought not to be done, so as to transform the proceedings into a mini-trial.[6] At this stage, the task is limited to forming a *prima facie* view of the evidentiary material available on record.

6. In the course of arguments, the Applicant relied upon a blockchain transaction receipt to demonstrate that 50 Bitcoins were, in fact, credited to the Complainant's E-wallet on 12th July, 2017. This Court had accordingly directed the State to verify the said claim and place on record a status report.

7. The State has now submitted a supplementary status report, which is taken on record. As per the report, the Investigating Officer met the

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[4] ***Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.*** (2010) 14 SCC 496

[5] ***Javed Gulam Nabi Shaikh v. State of Maharashtra & Anr.,*** (2024) 9 SCC 813

[6] *See also:* ***Brijmani Devi v. Pappu Kumar& Anr.,*** (2022) 4 SCC 497 and ***Mahipal v. Rajesh Kumar @ Polia,*** 2020 (2) SCC 118

Applicant in custody and sought access credentials to the website of the accused company - bitxoxo.com. The Applicant disclosed that the website was operational until 2021 and that the data had been exported to a laptop prior to its closure. While access to the original website is no longer possible, the IO confirmed that 50 Bitcoins were indeed credited to the Complainant's wallet on 12th July, 2017, having a recorded value of ₹1,39,02,011/-.

8. However, according to the Complainant, the same Bitcoins were subsequently transferred back to the account of the accused company between 04th to 08th November, 2017. On a pointed query from the Court as to why the Bitcoins were returned to the accused company, counsel for the Complainant submits that the Applicant and his company had offered a special investment scheme promising higher returns, which persuaded the Complainant to re-transfer the Bitcoins.

9. On a *prima facie* analysis of the documents on record, in the opinion of this Court, it emerges that to some extent, the Applicant and the accused company initially acted in accordance with their terms of service as a bitcoin trading platform by issuing login credentials, giving E-wallet access, and crediting Bitcoins to the Complainant. Whether such a scheme was fraudulent, or part of a legitimate trading arrangement, will require detailed examination during trial.

10. As regards the Applicant's contention of delay in filing of the FIR, it is undisputed that the impugned transactions occurred between April 2017 and February 2018, whereas the FIR came to be registered only in August 2023, after a delay of more than five years. Though the Complainant attributes part of the delay to the COVID-19 pandemic, that explanation

does not convincingly cover the entire period. The reasons for the delay are factual in nature and will be scrutinized at trial. However, at the bail stage, the unexplained passage of time lends support to the Applicant's case.

11. On the issue of antecedents, it is noted that the FIRs referred to by the State were quashed by the Telangana High Court on the basis of a settlement with the complainants therein. While quashing of the FIR does not erase the conduct alleged in those cases, it does demonstrate that the Applicant was not convicted. There are no other pending cases against him. Furthermore, the Applicant had earlier been granted interim bail by this Court and he surrendered upon expiry of the said period, which indicates a degree of *bona fides* in complying with Court directions.

12. This Court is also conscious that economic offences, especially those involving emerging technologies such as cryptocurrency, present unique investigative and evidentiary challenges. However, the seriousness of the allegations, though a relevant factor, cannot override the foundational principles of personal liberty. The mere invocation of Sections 420 or 120-B IPC does not displace the presumption of innocence, nor does it relieve the prosecution of its burden to demonstrate, even at this stage, a *prima facie* case that is cogent and supported by material evidence. In the present case, the fact that Bitcoins were initially credited to the Complainant, and that the money trail includes partial reversals into the accused company's accounts, adds factual complexity that calls for close scrutiny at trial, not a blanket denial of liberty at the pre-trial stage.

13. The Applicant has already spent approximately seven months in judicial custody. Given the nature of evidence and number of witnesses, the trial is likely to take considerable time. 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.[7] In the present case, it is noted that while the chargesheet has been filed before the Trial Court, charges have not been framed as of yet, and the Applicant has been in custody for about 7 months.

14. In light of the above, in the opinion of the Court, the Applicant has made out a case for grant of bail. As to the contention of the State that the Applicant poses a flight risk; while granting bail this Court can impose reasonable conditions on the Applicant so as to ensure his presence during trial.

15. Accordingly, the Applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate/ Jail Superintendent, on the following conditions:

a. The Applicant shall cooperate with any further investigation as directed by the concerned IO,

b. The Applicant shall appear before the Trial Court as and when directed;

c. The Applicant 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;

d. The Applicant shall under no circumstance leave the country without the permission of the Trial Court;

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

e. The Applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;

f. The Applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

16. In the event of there being any FIR/DD entry/complaint lodged against the Applicant; it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

17. 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 should also not be taken as an expression of opinion on the merits of the case.

18. The bail application is allowed in the afore-mentioned terms.

SANJEEV NARULA, J

MAY 13, 2025
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