$~6

IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ BAIL APPLN. 1079/2025 and Crl.M.A. No. 16659/2025

DEEPAK KUMAR .....Petitioner

Through: Mr.Jovil Prakash and Mr. Nivesh Kumar, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Ms. Priyanka Dalal, APP for State with SI Udai Singh and HC Vikas.

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **20.08.2025**

1. The instant bail application is, *inter alia*, for grant of regular bail arising out of FIR No.102/2024 dated 22.10.2024 under Section 318(4) and 319(2) of the BNS, 2023. Earlier two endeavours of the applicant to seek bail from learned ACJM and learned Sessions Court have been futile vide rejection orders dated 03.02.2025 and 11.02.2025, respectively. Assailed herein is also an order dated 20.12.2024 passed by learned ACJM vide which applicant was remanded in judicial custody.

2. FIR is stated to be *inter alia* based on the information gathered from the owner of a cybercafe, from where the multiple accused allegedly carried out the acts of frauds. Another bail application bearing no. 1040/2025 is also listed today before this Court on the same basis. In

both FIRs, applicant herein is arrayed as an accused alleging the use of same cybercafe.

3. Per FIR, on 05.10.2024, the complainant received a message from one Mr. Sourav Kumar, stating that the water meter reading was not updated. Since the 2nd floor meter at L-50A, Malviya Nagar had not been working for months and a complaint for replacement was already pending, she believed the message to be genuine.

3.1 On contacting him, he confirmed the meter details and connected her on WhatsApp bearing the Delhi Jal Board logo. He asked her to download an application, enter the meter particulars, and make a payment of Rs.9/- through debit or credit card. Trusting this, she filled in her husband's name and attempted the payment several times. When she eventually tried with her debit card, she received an email informing her that her Fixed Deposit had been prematurely withdrawn without her authorization.

3.2 Subsequently, she immediately went to the bank around 3:15 PM, blocked her debit card, and uninstalled the app. Thereafter, she also lodged an online complaint on the Cyber Crime Portal (Acknowledgement No. 30810240041865). Later at 10:00 PM, further debit messages appeared, after which she froze her account as the fraudster was still attempting transactions.

3.3 The bank confirmed that fraudulent internet banking transactions had been carried out from her Kotak Mahindra Bank, Malviya Nagar Branch, Account No. 4211864222, namely:

Rs.1,77,000 (IB Billpay AXIS00000 NATKF EBPP-0515696005) on 05.10.2024; and

Rs.2,96,739.11 (IB Billpay AXIS00000 NATKF EBPP-0515695530) on 06.10.2024.

3.4 On 06.10.2024, she again received a similar message from number 09042098057 but did not respond. She also filed a complaint with Kotak Mahindra Bank regarding the fraud. Thereafter, on 22.10.2024, she appeared before the Cyber Police Station, South District, Saket, and submitted a detailed written complaint.

4. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

5. Learned counsel for the applicant would argue on lines of grounds pleaded in the petition *inter alia* urging as below:-

5.1 Learned counsel for the applicant would contend that the applicant's constitutional and statutory rights were violated at the time of arrest, as the arresting officers failed to communicate the grounds of arrest to the applicant in violation of Article 22 of the Constitution of India and Section 47 of the BNSS, 2023. He would point out that neither the arrest memo nor the remand application disclosed the grounds of arrest to the applicant, and the only communication recorded was that his brother was informed via mobile phone, which does not satisfy the legal mandate. On this ground alone, it is submitted, the applicant is entitled to bail.

5.2 He would further contend that the arrest was solely based on a contradictory disclosure statement of one Mr. Deepak Sharma, owner of the cybercafé. While in his statement under Section 180 BNSS he claimed long familiarity with the applicant and regular visits to his café, in the cybercrime incident report he alleged that the applicant was involved in fraudulent credit card use. These contradictory versions, coupled with the café register seized by the I.O., cast serious doubt on the credibility of the material relied upon.

5.3 He would also argue that the learned ACJM Court, while rejecting the bail application vide order dated 03.02.2025, erroneously held that it could not examine constitutional violations.

5.4 He would further contend that the Sessions Court also failed to consider the submissions of the applicant and mechanically dismissed the bail application without addressing the issues raised.

5.5 The learned counsel would submit that the continued custody of the applicant serves no purpose as investigation stands concluded and chargesheet has been filed. No fruitful purpose would be achieved by denying bail, particularly when the applicant is willing to abide by any conditions imposed by this Court.

5.6 Moreover, the learned counsel would contend that the applicant is young man who has his entire career ahead of himself and has no criminal record.

6. Opposing the above submissions, the learned APP for the State argues that the applicant is involved in a serious cyber offence and forms part of a larger nexus of cyber criminals and is thus not entitled to any relief at this stage, as there remains a genuine risk of him absconding or tampering with the evidence.

6.1 She further submits that the credit cards, cheated money, and their holders are yet to be traced, while co-accused Golu @ Ajay @ Rakesh is absconding. It is apprehended that if released, the accused may also abscond or threaten or influence the witnesses.

7. Having heard, pertinent to note foremost that co-accused (Akshay), in whose name the Axis Bank Credit Card was issued, has already been granted bail vide order dated 11.08.2025 in FIR No. 102/2024, passed by the learned CJM.

8. Having heard, it seems to me a fit case of bail at this stage. Let us see how.

9. Apart from grant of bail on parity, the arrest of the applicant appears to have been carried out in violation of his constitutional right. Article 22(1) of the Constitution of India mandates that every person arrested must be informed of the reasons for such arrest. Also, Section 47 of the BharatiyaNagarik Suraksha Sanhita, 2023 statutorily reinforces this obligation. However, the arresting officers failed to comply with this requirement as no grounds or even reasons were conveyed.

10. The claim of the prosecution is that the applicant's brother was informed over a mobile phone, which does not satisfy the legal mandate requiring direct and effective communication to the arrested person. Such communication must be made to the person arrested to ensure transparency and safeguard against arbitrary detention. On this ground alone, the applicant is entitled to be enlarged on bail.

11. Moreover, the applicant has undergone approximately 7 months in custody. Investigation is over qua him as the charge sheet has been filed. He is thus not required for any custodial investigation.

12. The applicant is a 22-year-old, in the prime of his youth stated to be preparing for various competitive examinations in pursuit of his career, with no criminal antecedents, thus, doesn't seem to be a flight

risk. The alleged financial transactions led to lodging of two FIRs as already noted. Further continued incarceration would thus serve no useful purpose, especially, when the trial is not likely to conclude in the near future.

13. Qua the suspicion of applicant tampering with evidence, the same appears to be unfounded as all the evidence qua him has already been seized by prosecution and is beyond his reach.

14. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

15. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

16. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 20, 2025/SV