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

\+ BAIL APPLN. 1925/2025, CRL.M.A. 15568/2025

PRAKASH .....Petitioner

Through: Mr. Rohit Shukla, Mr. Vivek Kr. Gaurav, Mr. Sunil Parjapati, Mr. Umesh Bishnoi, Mr. Kartik Srivastav and Mr. Sajinder, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Amit Ahlawat, APP for State.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

<u>O R D E R</u>

% 19.05.2025

1. The present application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 438 of the Code of Criminal Procedure, 1973) seeks grant of pre-arrest bail in proceedings emanating from FIR No. 80/2024 registered under Sections 420, 466, 468, 471, 120B, 34 of the Indian Penal Code, 1860[1] at P.S. Cyber Police Station South-West District.

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

2.1. A complaint dated 17th August, 2024, submitted by Mr. Jitender Kumar Sharma *via* the NCRP portal was recorded under Diary No. 3143-NCRP with by Cyber Police Station, South-West District. The Complainant alleged a financial fraud amounting to INR 6.39 lakhs and stated that he was induced through WhatsApp and Telegram messages offering purported job opportunities. He initially received small commissions on minor deposits,

[1] "IPC"

thereby gaining confidence and prompting larger transfers. However, despite repeated assurances, no refunds were issued, and he was ultimately defrauded of the entire amount.

2.2. Investigation revealed that INR 3.5 lakhs of the defrauded sum was transferred to an IndusInd Bank account in the name of "Global Electronics," a firm registered under in the name of one Narender Kumar.

2.3. Technical surveillance led to the arrest of accused Ramniwas on 4th November, 2024. He confessed that Prakash (the Applicant) had obtained fake Aadhaar and PAN cards in the name of Narender Kumar through another co-accused, Taga Ram. Using these documents, the Applicant and Ramniwas rented a shop in Pune and registered multiple firms, including Global Electronics. He disclosed that he opened the IndusInd Bank account using these documents and later sold it to one Mukeshpuri @ Raghu. He further disclosed that he and the Applicant jointly withdrew cash in Pune. The Applicant allegedly also created fake documents under the alias "Prema Ram," copies of which were recovered from Ramniwas's mobile device.

2.4. Ramniwas, during police custody, identified the shop in Handewadi, Pune, from which the cash withdrawals were made. CCTV footage from 13th April, 2024 corroborates the Applicant's presence at the scene with Ramniwas.

2.5. WhatsApp chats between the Applicant and Ramniwas revealed detailed discussions about fake accounts and the sharing of related information. The CDR of the Applicant's mobile number was analysed which confirmed frequent presence in Pune, Maharashtra, and Surat, Gujarat, indicating suspicious movement patterns.

2.6. A nine-day police custody remand of Ramniwas was obtained to investigate the wider conspiracy and apprehend other co-accused including Mukeshpuri @ Raghu, Taga Ram, and the Applicant.

2.7. A raid was conducted at Applicant's residence but he was not found and his mobile was switched off since the arrest of accused Ramniwas. A notice dated 9th November, 2024 under Section of 35(3) of BNSS was issued to the Applicant and served upon his uncle, Lakhpatram, instructing him to join the investigation by 16th November, 2024.

2.8. The bank details tied to the fake documents revealed that the Applicant had registered four fake firms i.e. Prem Electronics and Furniture, Prem Electronics, Prem Enterprises and Jai Shree Maa Meladdi Private Limited using the identity of Prema Ram, through which approximately INR 5.5 crores in transactions were made. He is reportedly linked to around 170 complaints on the NCRP portal.

2.9. Non-Bailable Warrants were issued against the Applicant on 23rd November, 2024 and subsequently, proclamation proceedings under Section 84 BNSS were initiated on 8th January, 2025.

2.10. The co-accused Ramniwas has been granted bail by the Sessions Court by order dated 28th November, 2024. The Applicant's request for anticipatory bail has been dismissed by the Sessions Court by orders dated 25th February, 2025 and 25th March, 2025.

2.11. The Applicant had also filed a petition under Section 528 of BNSS before this Court for quashing of the notice dated 9th November, 2024 under Section 35(3) of the BNSS on the ground that the notice did not bear the seal and serial number of the concerned P.S. The said petition had been disposed of by this Court by order dated 28th February, 2025 passed in CRL.M.C. 1448/2025.

2.12. Another application seeking cancellation of proclamation proceedings was filed by the Applicant before the Trial Court however, by order dated 5th March, 2025, the same was dismissed with the direction to join investigation before the investigation agency.

2.13. The Applicant had also filed CONT.CAS(C) 540/2025 against IO SI Sumit and the same had been dismissed as withdrawn by this Court by order dated 8th April, 2025.

2.14. The Applicant has further filed a CRL.M.C. 1748/2025 before this Court for the cancellation of proceedings under Section 84 of BNSS and the same has dismissed as withdrawn by order dated 15th May, 2025.

3. Counsel for the Applicant urges the following in support of the Applicant's request for pre-arrest bail:

3.1. The co-accused, Ramniwas, has already been granted regular bail by the Sessions Court by order dated 28th November, 2024. The Applicant, being similarly or better placed, is entitled to bail on the ground of parity.

3.2. The alleged fraudulent transaction pertains to an amount of approximately INR 6.39 lakhs, of which INR 4.30 lakhs has already been recovered from Ramniwas. Without prejudice to his rights and contentions, the Applicant is willing to deposit the balance amount to demonstrate his *bona fide*.

3.3. The Applicant has been falsely implicated in the present case. His name is not reflected in the FIR, nor has any specific role been attributed to him in the commission of the alleged offence. There is no material to show that any portion of the alleged proceeds were received in his bank accounts. The allegations levelled against him are vague, general, and bereft of any cogent or credible evidence establishing his involvement. In particular, there is no financial trail or documentary linkage implicating the Applicant in the purported fraud.

3.4. The sole basis for implicating the Applicant appears to be the disclosure statement of co-accused Ramniwas, without any corroborating evidence. Further, the allegations in the FIR are contradictory in nature. The Complainant claims he was contacted under the guise of being offered a job, while on the other hand, he alleges that he was deceived into making investments. This inconsistency in the complaint casts serious doubts on its veracity and raises questions about the actual nature of the alleged offence.

3.5. The notice issued under Section 35(3) of BNSS lacked essential elements such as a serial number, date of issuance, and the official seal of the issuing authority and therefore is in violation of the decision rendered by this Court in ***Amandeep Singh Johar v. State of NCT of Delhi and Another.***[2] The Applicant believed that the said notice was only a scam and therefore did not respond to the same. He, however, maintains that he has always been and remains willing to cooperate with the investigation.

3.6. Upon becoming aware of the proclamation proceedings under Section 84 BNSS, the Applicant approached the Sessions Court seeking anticipatory bail. His application was rejected on 25th February, 2025 without due consideration of the legal principles laid down in ***Amandeep Singh Johar*** concerning the proper issuance of notices under Section 35(3) of BNSS. His subsequent application before the Chief Judicial Magistrate for cancellation of proclamation proceedings was also dismissed on 5th March, 2025, without appreciating the legal infirmities highlighted. These issues, it is submitted, are still pending adjudication.

3.7 The status report filed by the State refers to approximately 170 complaints purportedly received by the police. However, there is no indication that an equivalent number of FIRs have been registered against the Applicant. The State is thus, attempting to exaggerate the facts and the extent of the Applicant's involvement, without substantive basis in order to frustrate his application for anticipatory bail.

4. Mr. Amit Ahlawat, APP for the State, strongly opposes the Applicant's request and submits as follows:

4.1. The investigation has uncovered approximately 170 complaints lodged on the NCRP portal that bear a similar fact pattern, all pointing toward the involvement of the Applicant. The *modus operandi* in each case involves the use of fictitious firms and forged documents to facilitate financial fraud. Several bank accounts were opened in the name of non-existent individuals, including "Prema Ram." Upon verification, it was revealed that no person by that name exists. Notably, the Aadhaar and PAN cards used for account openings contain the Applicant's photograph, thereby directly connecting him to the fraudulent documentation and attracting offences under Sections 467 and 468 of the IPC.

4.2. These forged Aadhaar cards were not mere clerical fabrications but involved sophisticated biometric manipulation. The devices used to capture retinal and fingerprint scans were tampered with fingerprint inputs were replaced with footprints, and the biometric devices were physically inverted to prevent proper iris capture. The State contends that such manipulation required a co-ordinated effort, with the Applicant acting as the principal conspirator alongside co-accused persons. The fictitious entities and

[2] 2018 SCC OnLine Del 13448

fraudulent accounts were then systematically used to perpetrate cyber and financial frauds, including the one in the present FIR.

4.3. In the present case, INR 3.5 lakhs out of the defrauded amount was transferred to a bank account in the name of "Global Electronics," operated by co-accused Ramniwas. Further transactions involved cash withdrawals by a local shopkeeper. CCTV footage obtained from a shop in Handewadi, Pune, on 13th April 2024, clearly shows the Applicant present alongside Ramniwas during the withdrawal. This, according to the State, corroborates the Applicant's involvement.

4.4. The contention that the Applicant's name does not appear in the FIR or that his implication rests solely on the disclosure of a co-accused is factually incorrect. The prosecution has relied not only on disclosure statements but also on substantial corroborative material, including CCTV footage, forged documents bearing the Applicant's image, and incriminating WhatsApp messages recovered during the forensic examination of digital devices. These collectively point to the Applicant's active role in a well-organised interstate syndicate. Given the seriousness of the allegations, the nature of the fraud, and the need for custodial interrogation to unravel the full scope of the conspiracy, the Applicant is not entitled to the discretionary relief of anticipatory bail.

5. The Court has considered the afore-noted facts and submissions. It is pertinent to highlight the conduct of the Applicant in persistently evading investigation. Rather than co-operating with the authorities, the Applicant has engaged in filing multiple legal proceedings before various Courts without any genuine attempt to join the investigation. Despite being served with a notice under Section 35(3) BNSS, containing all necessary contact

particulars and instructions to join the investigation, the Applicant did not respond. Instead, he initiated multiple proceedings before different forums, challenging the procedural validity of the notice on technical grounds, while evading to join investigation. These attempts, however, have been found meritless. It is apposite to refer to this Court's order dated 28th February, 2025 passed by this Court in CRL.M.C. 1448/2025 wherein the Court refused to interfere with the issuance of the notice under Section 35(3) BNSS and expressly observed that the challenge had become infructuous. Despite this, the Applicant continued to avoid participation in the investigation, necessitating the issuance of non-bailable warrants and initiation of proceedings under Section 84 of the BNSS. The order reads as follows:

> *"CRL.M.A. 6520/2025 (Seeking Exemption)*
> *1. Allowed, subject to just exceptions.*
> *2. The Application stands disposed of.*
>
> *CRL.M.C. 1448/2025*
> *3. A Petition under Section 528 BNSS, 2023 has been filed on behalf of the Petitioner for quashing of impugned Notice under Section 35(3) of the BNSS and consequential proceedings emanating from it under Section 84 of the BNSS issued to the Petitioner in FIR bearing No.80/2024 under Section 420/466/468/471/120B/34 IPC registered at Police Station Cyber Police Station, South-West District, Dwarka.*
> *4. It is asserted that A Notice under Section 35(3) BNSS was purportedly issued to the Petitioner for appearance before the Investigating Agency on 16.11.2024 at 10:00 AM. The said Notice is challenged on the ground that it has been issued in violation of the guidelines laid down by the Division Bench of this Court in Amandeep Singh Johar vs. State of NCT of Delhi in W.P. (C) 7608/2017 decided on 07th February, 2018. It is submitted that this Notice does not have the stamp and the seal of the person issuing this Notice and also does not bear the Serial Number. Since, the Notice has not been issued in accordance with law; the same may be quashed along with other subsequent proceedings emanating there from.*
> *5. The prayer No.2 and 3 have also been made, but the learned Counsel for the Petitioner submits that he is not pressing his relief No.2 and 3 for*

issuing of Notice under Section 35(3) BNSS and for appearance of the accused through Video Conferencing.

*6. **Learned Prosecutor submits** that the Applicant failed to appear in response to the Notice after which NBWs were issued and now the proceedings under Section 84 BNSS have been initiated. It is further submitted that the Anticipatory Bail filed on behalf of the Applicant has been dismissed and the matter is today listed from the learned Trial Court for cancellation of the proceedings under Section 84 BNSS.*

*7. **Submissions heard and record perused**.*

8. The Notice under challenge has sought appearance of the Applicant before the Investigating Agency on 16.11.2024 which has already elapsed. The Applicant seeks to challenge the subsequent proceedings under Section 84 BNSS on the basis of this Notice being incorrect, but he is at liberty to challenge the entire procedure in the proceedings under Section 84 of BNSS.

9. Since, the Notice has become infructuous, no further directions are required in the present Petition, which is hereby disposed of along with the pending Application."

6. On the previous occasion, when the Applicant had again challenged the process under Section 82 Cr.P.C., the counsel for the Applicant had withdrawn the same with a liberty to apply before this Court in a bail petition as recorded. Accordingly, at this juncture, this Court is not dismissing the bail petition on the ground of maintainability but is adjudicating it on merits. In this regard, it is important to note that the rejection of bail by order dated 25th February, 2025 also considered the substance of the allegations, as reflected below:

"Further, even considering the reply filed by the IO, the prima facie involvement of the applicant is shown as it is submitted that the applicant had got bank accounts opened using fake aadhar card registered in the name of Prema Ram and these bank accounts were used for the purpose of cyber crimes. Further, it is mentioned in the bail reply that applicant was involved in 170 cases as per the NCRP portal as the accounts registered in his name were involved in many cyber cases of several states. Further, the investigation is at initial stage and it is further mentioned in bail reply that custodial interrogation of applicant may be required to be done. In view of the above discussed, the anticipatory bail application moved on behalf of applicant is dismissed."

7. Thus, the earlier rejection of bail was not predicated solely on the Applicant's evasive conduct but also upon a substantive appraisal of the material on record. Be that as it may, while this Court is not inclined to dismiss the present petition on grounds of maintainability, it is equally persuaded since no case is made out for grant of protection at the pre-arrest stage. The evidentiary material highlighted by the State, including forged identity documents, digital evidence, and CCTV footage, *prima facie* implicates the Applicant in the orchestration of the alleged offence.

8. The Applicant's claim that there exists no financial trail directly linking him to the proceeds of the crime cannot, at this stage, undermine the prosecution's case. In cases involving complex financial frauds and cybercrime, the absence of direct pecuniary transfers to an accused's personal account does not by itself negate their role in the conspiracy. The recovery of fabricated documents, allegedly used to create fictitious firms and accounts through which large-scale transactions occurred, is a *prima facie* indicator of the Applicant's active participation. The law is well-settled that in conspiracy-related offences, even peripheral or enabling acts that further the common objective attract culpability. Accordingly, the nature and seriousness of the allegations, coupled with the Applicant's non-cooperative conduct during investigation, weigh heavily against the grant of anticipatory bail.

9. As regards the Applicant's submission that the only evidence against him stems from the disclosure statement of co-accused Ramniwas, this Court is not persuaded. The investigation thus far has yielded corroborative material that *prima facie* implicates the Applicant in the alleged conspiracy. This includes CCTV footage capturing his presence at the location of cash

withdrawal, documentary records linked to the creation of fictitious entities, and WhatsApp messages exchanged between the Applicant and the co-accused, reflecting coordinated efforts in the operation of a structured fraudulent scheme. In such circumstances, the Court finds merit in the State's plea for custodial interrogation.

10. Pertinently, the investigation reveals that the fake firms and accounts, allegedly created using fabricated identity documents, handled transactions amounting to over INR 5.5 crores. Thus, the Applicant's offer to deposit INR 2 lakhs as a gesture of co-operation appears inadequate in view of the magnitude of the alleged offences.

11. This Court also finds no merit in the claim for parity with co-accused Ramniwas. Firstly, this case pertains to pre-arrest bail whereas Ramniwas was given regular bail. Secondly, the allegations against the Applicant pertain to the use of forged identification documents, creation of fictitious entities, coordination of fraudulent banking activities, and direct involvement in cash withdrawals linked to the crime. The evidence against him stands on an independent and distinct footing. The bar for invoking parity is not met, especially when the Applicant's custodial interrogation is sought for unravelling the larger conspiracy.

12. In light of the foregoing, the Court is not inclined to grant the relief of anticipatory bail. The application is devoid of merit and is accordingly dismissed, along with all pending applications.

SANJEEV NARULA, J

MAY 19, 2025/*nk*