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

\+ BAIL APPLN. 2801/2025

GOUSWAMI HARDIKGIRI .....Petitioner

Through: Mr.Aditya Yadav, Mr.Deepak Kumar and Mr.Abhishek Singh, Advocates

versus

THE STATE NCT OF DELHI .....Respondent

Through: Ms.Priyanka Dalal, APP for the State alongwith SI Gaurav, P.S-Cyber West

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

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

% 27.08.2025

1. The applicant is before this Court having remained under incarceration since 31.05.2025, for a period of 2 months and 27 days, seeking indulgence of this Court for grant of bail during pendency of the trial in criminal proceedings arising out of FIR No. 69/2024 dated 14.11.2024 for alleged offence under Section 318(4) BNS (Cheating and dishonestly inducing delivery of property) and registered at Police Station Police Station Cyber Police Station West.

2. Briefly speaking, per FIR, the case set up by the prosecution/complainant is that the complainant, Satnam Singh, who was lured through a WhatsApp message promising small earnings for completing YouTube-related tasks. Initially, he was asked to like and comment on videos for which he received a welcome bonus of ₹150. Thereafter, he was induced to invest money with the assurance of high

returns (30–40%) on deposits.

2.1 Trusting the scheme, the complainant transferred ₹7,29,787/- from his account and also deposited ₹2,49,000/- in cash into an ICICI Bank account (No. 072605501657) in the name of M/s OM Enterprise, making a total cheated amount of ₹9,78,787/-.

2.2 Although some initial returns were given, after a few transactions the complainant was prevented from withdrawing money and was repeatedly asked to deposit more. Realising that he had been defrauded, the complainant lodged a cyber complaint (No. 3081120051391) on the Cyber Crime Portal. Upon enquiry, the present FIR No. 69/2024, U/s 318(4) BNS, PS Cyber West, Delhi was registered and investigation commenced.

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

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

4.1 That the applicant has been falsely implicated in the present case. The FIR allegations, even if taken at their face value, do not establish the presence of *mens rea*, an essential ingredient of the offences alleged under Section 318(4) of the BNS, 2023. The applicant acted under a bona fide belief that he was facilitating legitimate stock market transactions and was himself deceived by the actual perpetrators of the fraud.

4.2 That the applicant is not a beneficiary of the alleged fraud but rather a victim himself. He was induced to provide his bank account details, received only a meagre commission of ₹41,000/–, and later realised that he too had been defrauded by the same individuals. The actual culprits absconded leaving the Applicant stranded.

4.3 That the applicant suffers from severe health conditions, including uncontrolled diabetes (sugar level exceeding 500 mg/dL), neuropathy, nephropathy, and critically high triglyceride levels (above 700 mg/dL). These ailments necessitate continuous specialised medical care which is not feasible within the confines of judicial custody.

4.4 That the applicant has at no point sought to evade the process of law. In fact, he had requested to join the investigation through video conferencing on account of his medical condition, which reflects his bonafide willingness to cooperate. All bank records and transaction details are already available with the investigating agency, rendering further custodial interrogation unnecessary.

4.5 That the applicant is a permanent resident of Jamnagar, Gujarat, with deep roots in society and no criminal antecedents. He poses no risk of absconding, tampering with evidence, or influencing witnesses. This is further strengthened by his clean background and documentary evidence of residence.

4.6 That the investigation in the present matter is largely complete. All relevant documentary evidence, including bank statements and transaction trails, are already in possession of the Investigating Officer. Hence, continued custody serves no useful purpose.

4.7 Prolonged incarceration without trial, particularly when the trial is unlikely to commence in the near future, would amount to pre-trial punishment, contrary to the settled law that bail is the rule and jail is the exception.

4.8 That the principle of presumption of innocence until proven guilty is a cornerstone of our criminal justice system. Denial of bail in the absence of conclusive evidence of *mens rea* undermines this fundamental tenet.

5. Opposing the above submissions, the learned APP for the State argues that the applicant is not entitled to any relief at this stage The allegations against the accused/applicant pertain to a large-scale cyber fraud involving cheating of the complainant to the tune of ₹9,78,787/–. Cyber crimes of this nature have wide social ramifications, affect public confidence in online financial transactions, and cannot be treated lightly. The gravity and magnitude of the offence weigh heavily against the grant of bail.

5.1 That the investigation has revealed that the alleged ICICI Bank Account No. 072605501657 of M/s OM Enterprise, through which the cheated money was routed, is in the name of the present applicant. The account was deliberately given to co-accused Paresh Vara @ Uday for the purpose of channelizing fraudulent money, with full knowledge and consent of the applicant.

5.2 That the applicant received commission of ₹41,000/– for permitting the fraudulent transactions through his account. This itself shows his complicity, active participation, and monetary benefit from the proceeds of crime.

5.3 That the applicant is closely associated with other conspirators who are still to be apprehended. If enlarged on bail at this stage, he is likely to tamper with crucial electronic evidence and thus obstruct the further course of investigation.

6. I have heard the submissions of both sides and perused the case file. There is some substance on the arguments of the learned counsel for the applicant qua the non-culpability of the applicant but the same can be

adjudicated only in course of the trial. At this stage, I am of the considered view that the applicant deserves to be released on bail during the pendency of the trial.

7. The applicant could be a victim himself. He claims he acted in good faith, believing he was assisting in legitimate stock market transactions, and was himself deceived by the real perpetrators. The applicant neither benefited from the alleged fraud nor orchestrated it; he is a victim who was induced to share his bank account details, received only a nominal commission of ₹41,000, and later discovered he had been defrauded when the actual culprits absconded.

8. The applicant has already remained in custody for more than 2 months for alleged cheating. Further incarceration would serve no useful purpose, as the trial is unlikely to conclude in the near future, and continued detention would amount to punitive confinement before conviction, especially when the applicant is neither a flight risk nor a threat to the fairness of the trial.

9. As regards the apprehension of tampering with evidence, it is pertinent to note that the material evidence has already been seized and is securely in the custody of the prosecution, rendering such apprehension illusory. One of the primary objects of bail is merely to secure the presence of the accused during trial. There is nothing on record to suggest that he would abscond, interfere with evidence, or influence witnesses.

10. Accordingly, applicant is directed to be released on bail on furnishing of bail bond and surety to the satisfaction of the learned Trial Judge/Duty Judge as the case may be and subject to the usual conditions to be imposed by the learned trial Judge/Duty Judge.

11. Nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same is only for the purpose of the disposing of the present bail application.

12. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 27, 2025/dy