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

\+ **BAIL APPLN. 4242/2025 & CRL.M.A. 32800/2025**

APRAJEET SARKAR .....Applicant

Through: Mr. Pawan Kumar, Mr. Vijay Singh, Ms. Suman Saharan & Ms. Megha Mehla, Advs.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Ritesh Kumar Bahri, APP for the State with Mr. Lalit Luthra & Mr. Vinesh Kumar, Advs.
Inspector Amit Kumar, PS- Cyber, Shahdara

**CORAM:**
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**O R D E R**

% **14.11.2025**

1. The present bail application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023(‘**BNSS**’) seeking grant of pre-arrest bail in FIR No. 57/2025 dated 08.07.2025, registered at Police Station Cyber Police Station Shahdara for the offence under Section 318(4) of the Bhartiya Nyaya Sanhita, 2023 (‘**BNS**’).

2. Briefly stated, the present case has been registered on a complaint regarding financial cyber fraud through an online trading scam wherein the complainant lost Rs.37,00,000/-. It is alleged that out of the total cheated amount of Rs.37,00,000/- an amount of Rs.1,50,368/- was credited to the bank account of one Yuvraj Gupta. It is alleged that the same account was opened by Yuvraj Gupta at the instance of the applicant and the sim card

linked to the said bank account was allegedly used in the applicant's phone. It is alleged that the applicant would pay Yuvraj Gupta a 3% commission for every transaction processed in the said account.

3. The learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case.

4. He submits that the applicant would lend his mobile phone to his friend Yuvraj Gupta and he would use the sim card linked with his bank account in the same. He submits that the applicant is willing join and cooperate with the investigation and his custodial interrogation is not needed.

5. *Per contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant.

6. He submits that the applicant played an active role in the commission of the present cyber fraud and was the main conspirator of the same. He submits that the sim linked with the bank account in which stolen funds have been sent was used in the applicant's mobile phone. He submits the same number was found to be active in Jodhpur and Jaipur where the cheated amount was withdrawn through the ATM.

7. He submits that the investigation is still at a nascent stage and there are chances of there being multiple victims in this case.

8. I have heard the counsel and perused the record.

9. It is to be kept in mind that the investigation is currently at a nascent stage. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the

latter case, the accused is already under arrest and substantial investigation is carried out by the investigating agency.

10. It is trite law that the power to grant a pre-arrest bail under Section 438 of the CrPC is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, in the case of ***State of A.P. v. Bimal Krishna Kundu* : (1997) 8 SCC 104**, held as under:

> "***8.*** *A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)*
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> > *"5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal."*
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> ***9.*** *Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)*
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> > *"The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest."*
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> *xxxx xxxx xxxx*
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> ***12.*** *We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have*

> *absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on "the career of millions of students", learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.*"

11. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the CrPC [***State v. Anil Sharma* : (1997) 7 SCC 187**]. Granting anticipatory bail to the applicant would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

12. In the present case, the allegations relate to a cyber fraud committed against the complainant causing a financial loss of Rs.37,00,000/- to the complainant. The investigation conducted thus far reveals that the applicant was operating a phone which has been found to have contained a sim card which is linked with a bank account which received an amount of Rs.1,50,368 out of the total cheated amount of Rs. 37,00,000/-.

13. It is pertinent to note that the present case pertains to serious allegations of digital frauds where complex technological mechanisms were employed to defraud gullible victims. Such cases, by their very nature, involve intricate methods and

multiple communication devices and are used to mislead unsuspecting victims. A perusal of the case diary indicates that apart from the amount of Rs.1,50,368/- several other substantial amounts were credited in the subject bank account, which were withdrawn on the very same day. Thus, the likelihood of there being multiple victims in the present case cannot be ruled out.

14. Although it is argued that custodial interrogation of the applicant is not required in the present case, it is well-settled that even if custodial interrogation is not required, the same by itself is not sufficient for grant of pre-arrest bail and the Court is required to examine the facts of the entire case. In this regard, the Hon'ble Apex Court in the case of ***P Krishna Mohan Reddy v. State of Andhra Pradesh*** **: 2025 SCC OnLine SC 1157** had observed as under:

> *"**23.** As held by this Court in **Sumitha Pradeep v. Arun Kumar C.K., (2022) 17 SCC 391** that it would be preposterous as a proposition of law to say that if custodial interrogation is not required that by itself is sufficient to grant anticipatory bail. **Even in cases where custodial interrogation may not be required the court is obliged to consider the entire case put up by the State, more particularly, the nature of the offence, the punishment provided in law for such offence etc.**"*
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> (emphasis supplied)

15. The task of the Investigating Agency seems arduous and they need to be given a fair play in the joints to investigate the matter in the manner they deem appropriate. The matter requires thorough investigation which ought not to be curtailed by passing an order granting pre-arrest bail.

16. Investigation carried out thus far does not indicate that the applicant has been falsely implicated. Granting pre-arrest bail to the applicant would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to

allow the applicant to use the same as a shield.

17. In the opinion of this Court, the applicant has not established a prima facie case for grant of pre-arrest bail.

18. The present application is accordingly dismissed.

19. 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.

**AMIT MAHAJAN, J**

**NOVEMBER 14, 2025**
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