



2025:DHC:1364



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

Date of decision: 28th February, 2025

+ BAIL APPLN. 4548/2024

NIRMAL KUMAR MISHRA

.....Petitioner

Through: Mr. Praveen Mishra, Mr. D.K. Pathak, Mr. Sanjay Kustwar, Mr. Arun Kumar, Mr. Sanat Pandey and Mr. Nishchal Kumar, Advocates

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Laksh Khanna, APP for the State
SI Pradeep, PS Cyber Northwest

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

1. The present petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') seeking anticipatory bail in FIR No. 041/2024 dated 08.06.2024 registered under section 420 of the Indian Penal Code, 1860 ('IPC') at P.S. Cyber Police Station, North West Delhi.

1.1. The relevant facts, as per the Status Report dated 11.01.2025, are as follows: The subject FIR was registered on the basis of a complaint lodged by one Ms. Shilpa Sharma on the National Cyber Crime Reporting Portal (NCRP) on 06.06.2024, alleging cyber fraud. The complainant stated that



she was deceived into transferring a sum of Rs. 17,07,389/- under the false pretext of Bitcoin investment, which was promised to yield high returns.

1.2. It is stated that the complainant was allegedly enticed into the fraudulent scheme via a WhatsApp group and was subsequently added to a Telegram group. Between 31.05.2024 and 05.06.2024, she transferred the said amount in nine transactions to seven different bank accounts.

1.3. It is stated that investigation revealed that Rs. 80,000/- out of the defrauded amount was transferred to a Current Account No. 12666470000016 maintained with YES Bank ('suspect Yes Bank account'). Upon inquiry, it was found that the said account was registered in the name of M/s Innovate Hub Multi Solutions Pvt. Ltd., whose proprietor was identified as co-accused Umesh Kumar Mishra ('Umesh').

1.4. It is stated that during interrogation, co-accused Umesh disclosed that he had handed over the said bank account to Nirmal Kumar Mishra ('Applicant'), for a commission of 2.5%. Further, it was revealed that the Applicant had provided a sum of Rs. 2,00,000/- to co-accused Umesh for opening the said suspect Yes Bank account and had accompanied the co-accused Umesh for opening the said suspect Yes Bank account. This amount was allegedly transferred from the Applicant's IDFC Bank account No. 10142867397 to the IDFC Bank account No. 10168792160 of co-accused Umesh.

1.5. It is stated that co-accused Umesh disclosed that on 28.05.2024 he had handed over ATM card, user ID and password required for internet login, a blank cheque and a SIM card (mobile number 9760792586) linked to the suspect Yes Bank account to the Applicant for operation of the said



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account. It is stated that the SIM card was activated on 28.05.2024 in the handset of suspect Ramesh Kumar Mishra ('Ramesh'; brother-in-law of the Applicant).

1.6. It is stated that investigation revealed that in addition to Rs. 80,000/- belonging to complainant/Shilpa which was credited to this suspect Yes Bank account on 31.05.2024, in all an amount of Rs. 1,92,00,000/- were credited to this suspect Yes Bank account from various other bank accounts; and there were 58 cyber fraud complaints received by NCRP, which led to the freezing of this account.

1.7. It is stated that examination of the money trail shows that the entire crime proceed was transferred by the Applicant to approximately 50 mule accounts (layer-2 accounts). It is stated that from these layer-2 accounts withdrawal was made through ATM or self-cheque. It is stated that some amount was further transferred in layer-3 accounts. The money trail from suspect Yes Bank account to layer-2 bank accounts through 18 transactions has been set out in the Status Report.

1.8. The CDR connectivity between the Applicant and co-accused Umesh, Sandeep Kumar Mishra ('Sandeep'; brother of the Applicant) and Ramesh has been enlisted in the Status Report.

1.9. It is stated that co-accused Umesh and Ramesh have been interrogated. It is stated that the investigation has revealed that the Applicant herein operated the suspect Yes Bank account in which there are 58 cyber fraud complaints on the NCRP portal. It is stated that only the Applicant can provide details of the Rs. 1,92,00,000/- credited to the account on 31.05.2024, its source and subsequent transfers.



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1.10. It is stated that as on 31.05.2024, Rs. 1,92,00,000/- were credited in the suspect Yes Bank account and the entire amount of Rs. 1,92,00,000/- were transferred out from the suspect Yes Bank account on the same date into 18 layer-2 accounts. It is stated that these transactions were all carried out by the Applicant herein with the use of the internet login details (e-banking) which were in his possession.

1.11. It is stated that custodial interrogation of the Applicant is required for recovery of the SIM card, the mobile handset used for operating the SIM and the internet banking login details. In addition, the money trail of the cheated amount withdrawn from the layer-2 accounts and layer-3 accounts has to be traced and established. The involvement of the other persons who assisted the Applicant in this conspiracy is to be unearthed.

Arguments of Applicant

2. Learned counsel for the Applicant states that the Applicant is apprehending his arrest based on the disclosure statement of the co-accused Umesh.

2.1. He states that Applicant has no role in the alleged transactions emanating from the suspect Yes Bank account and he has been falsely implicated in the present case.

2.2. He states that the Applicant remains willing to join and cooperate in the investigation. He emphasizes on the fact that previously also on 16.10.2024 upon being served with the notice under Section 41-A of the Code of Criminal Procedure, 1973 ('Cr. P.C.') the Applicant joined the investigation. He states that pursuant to the interim protection granted by



this Court vide order dated 25.02.2025 as well the Applicant joined investigation on 26.02.2025.

2.3. He states that during the interrogation co-accused Umesh revealed that his mobile phone which contains all his banking data, PAN and other important ID and passwords, was lost somewhere for which he lodged FIR No. 0149/2024 under Sections 66 B, 66C, 66D of the Information Technology Act, 2000, dated 06.06.2024 at Police Station (PS) Boundi, Bahraich, U.P.

2.4. He states that the Applicant is an Advocate by profession and that his connection with co-accused Umesh is limited to legal representation in various court matters in Bahraich District.

2.5. He states that after perusing the Status Report dated 11.01.2025 he has taken instructions from the Applicant with respect to the payment of Rs. 2,00,000/- through IDFC Bank to co-accused Umesh between 25.04.2024 and 01.05.2024 which he claims was made towards the purchase of a Car from the co-accused Umesh. He states that however, the possession of alleged Car has not been handed over to the Applicant.

Arguments of State

3. In reply, Mr. Khanna, learned APP states that the Applicant herein is directly involved in the offence of cheating and the laundering of crime proceeds; infact the Applicant herein is the mastermind of the said offence.

3.1. He states that co-accused Umesh's disclosure statement stands corroborated with the money trail vis-à-vis the initial Rs. 2,00,000/- credited into the suspect Yes Bank account.



3.2. He states that the money trail stands established and the ultimate beneficiary in the said trail was traced down to be Applicant.

3.3. He states that financial records establish that between 25.04.2024 and 01.05.2024, the Applicant transferred Rs. 2,00,000/- in eight transactions from his personal IDFC Bank account to the co-accused's Umesh's IDFC Bank account. Additionally, on 23.05.2024, a further sum of Rs. 60,000/- was transferred from the Applicant to the co-accused Umesh's account.

3.4. He states that thereafter, from the co-accused's Umesh's IDFC Bank account, Rs. 3,00,500/- was transferred to M/s Innovate Hub Multi Solutions Pvt. Ltd.'s Axis Bank account. He states that subsequently, Rs. 2,00,000/- was transferred from the M/s Innovate Hub Multi Solutions Pvt. Ltd.'s Axis Bank account to the M/s Innovate Hub Multi Solutions Pvt. Ltd.'s suspect Yes Bank account, into which the complainant and 58 other complainant were fraudulently induced to transfer funds.

3.5. He states that on 27.05.2024, Rs. 2,00,000/- was transferred from the said suspect YES Bank account to an account maintained with IDBI Bank in the name of 'Maa Singhvahini Enterprise', and the amount of Rs. 2,00,000/- was withdrawn in cash from this IDBI account using an ATM from an Axis Bank ATM, Bahraich, U.P.¹ between 29.05.2024 to 01.06.2024. He states that CCTV footage from the Axis Bank ATM confirms that it is the Applicant was the person withdrawing the cash. He states that the proprietor of 'Maa Singhvahini Enterprise' is late Chandan Kumar and interrogation shows that this account was also being operated by the Applicant herein. He states that Chandan Kumar has since passed away.

¹ Uttar Pradesh



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3.6. He states that therefore, the money trail of Rs. 2,00,000/- seed money provided by the Applicant to co-accused Umesh for opening the suspect Yes Bank account has been established through the aforesaid circuitous route. IDFC-IDFC-Axis-suspect Yes Bank-IDBI-ATM (of Axis).

3.7. He states that the verbal defense put up by the Applicant with respect to the initial transfer of Rs. 2,00,000/- to co-accused Umesh that the said amount is towards the sale consideration of a car is not tenable, as investigation has revealed that co-accused Umesh doesn't own any car which he could have allegedly sold to the Applicant.

3.8. He states that apart from the Applicant being ultimate beneficiary the CDR analysis of the Applicant reveals that he was in regular touch with the co-accused Umesh from the date of opening of the said suspect Yes Bank account till the date of the siphoning of the funds.

3.9. He states that co-accused Umesh had disclosed that he had handed over the SIM (Phone No. 9670792586) linked to the suspect Yes Bank account to the Applicant. He states that upon investigation it was found that the said SIM was inserted the handset of one Ramesh and upon investigation suspect Ramesh disclosed that the SIM was inserted by the Applicant in his mobile handset on some pretext. The statement of Ramesh is corroborated by the CDR analysis which shows that on 28.05.2024 when the SIM was inserted in the handset of Ramesh, location of the Applicant was also same.

3.10. He states that the Applicant has not cooperated with the investigation. Despite multiple notices under Section 41-A Cr. P.C., he initially appeared at the police station on 16.10.2024 but allegedly failed to respond to case-related inquiries. He states that a DD entry No. 16A, dated 16.10.2024 was



recorded regarding his non-cooperation. Subsequently, another notice was issued for 25.10.2024, but the Applicant neither responded nor joined the investigation, leading to the issuance of a Non-Bailable Warrant against him by the learned Chief Judicial Magistrate, Rohini Courts, District North-West Delhi, vide order dated 04.12.2024.

3.11. He states that Applicant has been identified as the principal conspirator in this cyber fraud, warranting custodial interrogation to uncover the full extent of the conspiracy. He states that the investigation has linked the accused to a larger cyber syndicate, and the Suspect Yes Bank account in question has been associated with 58 cyber fraud complaints on the NCRP portal.

3.12. He states that the arrest of the Applicant is required in this case for recovery of alleged SIM card, mobile handset and internet banking kit of alleged account. He states that in addition, the money trail of cheated amount is to be traced/established; the involvement of other accused persons who help him is to be investigated as well as the entire conspiracy is to be unearthed.

Analysis and Findings

4. This Court has heard the submissions advanced by the learned counsels for the parties and perused the record.

4.1. Before adverting to the facts of the present case it would be imperative to refer to the judgment of the Supreme Court in the case of **Sumitha Pradeep v. Arun Kumar**² where while dealing with the conflicting aspect of need for custodial interrogation and anticipatory bail,

² (2022) 17 SCC 391.



the Court held that even in the cases where custodial interrogation is not required, however, the Court cannot overlook the test of whether prima facie case has been made out against the accused by the prosecution. The relevant paragraph reads as under:

“In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. **There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused.** Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

4.2. Further the Supreme Court in **Central Bureau of Investigation v. Santosh Karnani**³ elucidated upon the grant of pre-arrest bail in the following words:

“24. The time-tested principles are that no straitjacket formula can be applied for grant or refusal of anticipatory bail. The judicial discretion of the Court shall be guided by various relevant factors and largely it will depend upon the facts and circumstances of each case. The Court must draw a delicate balance between liberty of an

³ 2023 SCC OnLine SC 427



individual as guaranteed under Article 21 of the Constitution and the need for a fair and free investigation, which must be taken to its logical conclusion. Arrest has devastating and irreversible social stigma, humiliation, insult, mental pain and other fearful consequences. **Regardless thereto, when the Court, on consideration of material information gathered by the Investigating Agency, is prima facie satisfied that there is something more than a mere needle of suspicion against the accused, it cannot jeopardise the investigation, more so when the allegations are grave in nature.”**

(Emphasis supplied)

4.3. The present case involves a large-scale cyber fraud wherein approximately 58 victims have lodged complaints with NCRP against the suspect Yes Bank account that had received credit of Rs. 1,92,00,000/- as of 31.05.2024, which was transferred out to 50 layer-2 bank accounts on a single day and the said layer-2 accounts in the investigation had been found to be mule accounts. Due to multiple complaints, the said bank account has been blocked at the directions of NCRP.

4.4. The prosecution has meticulously documented the investigative steps undertaken to establish the Applicant's connection to the suspect Yes Bank account.

4.5. In their disclosure statements, co-accused Umesh and Ramesh have identified the Applicant as the person instrumental in the opening and operation of the suspect Yes Bank account. The disclosure statements at this stage are prima facie corroborated by CDR analysis.

4.6. The Applicant admits being related to co-accused Umesh in whose proprietorship the suspect Yes Bank account stands. The Applicant admits that he provide Rs. 2,00,000/- to co-accused Umesh between 25.04.2024 to



01.05.2024. The co-accused Umesh has stated in his disclosure that it was this Rs. 2,00,000/- which was used by him to open the suspect Yes Bank account on the instructions of the Applicant. The prosecution has prima facie established that the said Rs. 2,00,000/- was ultimately withdrawn and collected back by the Applicant herein through the circuitous and layered route of IDFC-IDFC-Axis-suspect Yes Bank-IDBI-ATM (of Axis) as noted in paragraph no. 3.6 above. This has been established through documented banking transactions and CCTV footage of the Axis Bank ATM. Learned counsel for the Applicant did not respond to these submissions of the learned APP during arguments.

4.7. The verbal plea of the Applicant that the amount of Rs. 2,00,000/- was paid towards purchase of a Car from co-accused Umesh is also unsubstantiated with any documents. In addition, learned counsel for the Applicant failed to rebut the submission of the prosecution that co-accused Umesh does not own any Car and therefore, there could not have been any alleged transaction for the sale and purchase of the Car.

4.8. The prosecution has pleaded that CDR analysis show that the SIM card for mobile number 9670792586 linked with the suspect Yes Bank account was found to have been operated in the mobile handset of suspect Ramesh on 28.05.2024 and subsequently by co-accused Sandeep on 31.05.2024. And, this is contended on the basis of the IMEI number of the mobile handset provided by the telecom provider. The suspect Ramesh has stated that it is the Applicant herein who used his mobile handset on 28.05.2024.



4.9. It is well settled that the power exercisable under Section 482 of BNSS for granting anticipatory bail is extraordinary in character and is to be exercised only in exceptional cases, where it appears to the Court that the person may be falsely implicated or there are reasonable grounds for holding that the person, who is accused of the offence is not likely to otherwise misuse his liberty. (Re: **State of Madhya Pradesh v. Pradeep Sharma**⁴). The Applicant had joined the proceedings on 16.10.2024 after repeatedly ignoring multiple notices issued by the Investigating Officer (IO) under Section 41A Cr. P.C. However, upon joining the investigation, the Applicant failed to cooperate, refused to hand over his mobile phone, and declined to answer any questions related to the alleged cyber fraud case. In this regard a DD Entry No. 16A was recorded by the IO. Subsequently, the IO issued another notice under Section 41A Cr. P.C. on 16.10.2024, directing the Applicant to appear for further investigation on 25.10.2024. However, the Applicant again failed to comply. As a result, the learned Chief Judicial Magistrate, Rohini Courts, District North-West Delhi, issued a Non-Bailable Warrant against the Applicant vide order dated 04.12.2024. The Applicant has not provided any reasonable explanation for failing to join the investigation. As per the IO, the Applicant during interrogation on 26.02.2025 also failed to provide his mobile to inter-alia enable the prosecution to examine the alleged WhatsApp chats and Telegram group used for entrapping the complainants.

4.10. Considering the magnitude of the cyber fraud, the Applicant's role in the offense, the initial evidence indicating that the Applicant is the

⁴ 2014 (2) SCC 171



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mastermind behind the fraud, and his uncooperative conduct during the investigation, this Court finds that the Applicant has not made out a case for the grant of anticipatory bail.

5. Accordingly, the present application seeking anticipatory bail stands dismissed, interim protection granted vide order dated 25.02.2025 stands vacated.

6. Pending applications, if any, stands disposed of as infructuous.

7. Needless to state that nothing herein shall be construed as an expression of opinion on the merits of the case, or the investigation that is yet to be concluded.

MANMEET PRITAM SINGH ARORA, J
FEBRUARY 28, 2025/AKT

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