IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No. 251 of 2026

[Against the judgment of conviction and order of sentence dated 3rd February, 2026 passed in Cyber Case No. 59 of 2019 arising out of Jamtara Cyber P.S. Case No. 09 of 2019 by the learned Special Judge, Cyber Crime, Jamtara.]

Ekram Ansari @ Ikram Ansari, aged about 30 years, son of Ishlam Ansari, R/o village- Dharampur, P.O. and P.S. Narayanpur, District- Jamtara. …… **Appellant**

Versus

The State of Jharkhand ……. **Respondent**

Present
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellant : Mr. Abhishek Singh, Advocate
For the State : Mr. Shailendra Kumar Tiwari, A.P.P.

Order No. 08/ Dated: 29th October, 2026

1. Heard Mr. Abhishek Singh, learned counsel for the appellant and Mr. Shailendra Kumar Tiwari, learned A.P.P.

2. The present appeal is directed against the Judgment of conviction and order of sentence dated 3rd February, 2026 passed by the learned Special Judge, Cyber Crime, Jamtara in Cyber Case No.59/2019 (Arising out of Jamtara Cyber P.S. Case No.09/2019) whereby and whereunder the appellant has been convicted for the offence under sections 419, 420 of IPC and Section 66(D) of the I.T. Act and accordingly sentenced to undergo R.I for 3 years with a fine of Rs.40,000/- for the offence under Section 419 IPC and in default of payment of fine S.I. for three months and further sentenced to undergo R.I. for 5 years and fine of Rs.40, 000/- and in default of fine six months S.I. for the offence under Section 420 IPC. The appellant has been further directed to undergo R.I. for 3 years and pay fine of Rs.50,000/- for the offence under Section 66(D) of the IT Act and in default of payment of fine directed to undergo three months S.I. All the sentences were directed to run concurrently.

3. The prosecution story in brief as alleged in the F.I.R. based on the self-statement of the informant, is that on 22.11.2019 at 15.30 hours, he got secret information that cyber-criminal was coming to withdraw money from a SBI ATM situated at Station Road, Jamtara. Accordingly, a Police

Team consisting of several police Personnel reached at the said place. After some time, one person arrived there to withdraw money. Upon indication, the Police Team apprehended the said person, who disclosed his name as Ekram Ansari, who is the present appellant. It is alleged that on search, (i) One Samsung Duos Mobile Phone having IMEI No.35171 20715 43891 and 35171 30715 43899 inserted with two Airtel SIM Cards bearing Nos. 82925 73665 and 70442 75944. (ii) Paytm Card N.6080 3202 2130 2567 mentioning Kamlesh (iii) Oppo Android Mobile Phone having IMEI No.86761 40353 41817 and 86761 40353 41809 inserted with Airtel SIM Card No.9871808955 and JIO SIM Card No.87997 10364 were recovered from the possession of this accused. On query he has disclosed that he commits cyber-crime by using stolen mobile phones and forged SIM Cards after obtaining ATM Number, CVV Number and OTP number by presenting himself to be a bank officer and also used to transfer in his account through several e-wallets and forged bank accounts. On demand, he failed to produce any document for possession of the same. Suspecting him as a cyber-criminal, the informant seized all the articles from him and thereafter, seizure list was prepared in presence of independent witnesses, who signed on it and a copy of the said seizure list was given to the accused, in support of which, he has put signature on it. On the allegation of keeping these items for the purpose of committing cyber-crime, he was arrested. On being returned to the Police Station along with the seized articles and the accused, the informant recorded his self- statement with allegation that by use of forged SIM Cards and Mobile Phones, the accused was involved in receiving money, earned through cyber-crime on different scores of threats and allurement.

4. Criminal law has put into motion by lodging Jamtara Cyber Crime P.S. Case No.9/2019, dated 10.03.2019 under sections 414, 419, 420, 467, 468, 471 of IPC and Sections 66(B), 66(C), 66(D) of I.T. Act and on completion of investigation, Chargesheet has been submitted against the accused. Thereafter, the charge has been framed on 08.08.2019 under sections 414, 419, 420, 467, 468, 471 of IPC and Sections 66(B), 66(C), 66(D) of I.T. Act against the accused. Thereafter, the case has been committed to the Court of Sessions and the accused has been convicted accordingly. The accused has pleaded not guilty and claimed to be tried.

5. To substantiate the charges, the prosecution has examined altogether six witnesses and their depositions, in short, are as follows:-

(I). **P.W.1 Goutam Kumar Singh** Police Constable and a member of the raiding team and he has supported the prosecution story. In his cross-examination, he has admitted that the accused was neither apprehended nor investigated by him. He was apprehended near ATM Booth, Station Road but no cash was seized from the possession of the accused. He has specifically stated at para 11 of the cross-examination that mobile phone was seized but he did not remember the mobile number.

(II). **P.W. 2 Rajesh Kumar Mandal** is also Police Constable and a member of raiding team and he has reiterated same as P.W.1.

(III). **P.W.3 Gandru Oraon** is the Informant of this case. He has supported the prosecution case. He has apprehended the accused at the place of incident. The accused has not produced any valid paper with regard to the seized article. Thereafter, seizure list has been prepared marked as Exhibit P-1/PW3. He has also proved other exhibits marked as Exhibits- P-2, P-3, P-4 and P-5. In his cross-examination, he has admitted that no any cash was seized by the accused except the Mobile Phones. He has not inquired about the seized article.

(IV). **P.W.4 Chittaranjan Rai** is Chowkidar and a member of raiding team. He has identified his signature on the seizure list (Exhibit-P-1/1/PW4). This witness has stated in his examination-in-chief that the accused was apprehended on the spot and Mobile Phones, SIM Cards, ATM Cards were seized from his exclusive possession. He has also identified the accused in the dock. In the cross-examination, he did admit that he has not remember the mobile number as well as brand of the mobile phone. In para-6 of the cross-examination, he has admitted that he has only put his signature on the seizure list.

(V). **P.W.5 Sanjay Bouri** is also a Chowkidar and member of raiding team and he reiterated as same as P.W.4.

(VI). **P.W. 6 Sanjay Kumar** is the Investigating Officer of this case. He has investigated in the matter and has taken the statement of the witnesses as well as of the accused. He has deposed that all the witnesses have supported the fact of the FIR. The accused has confessed before him regarding involvement in cyber-crime. He has forwarded the seized

articles for Call Detail Records (CDR) and CAFs to the office of Superintendent of Police, Technical Cell, Jamtara. After taking statement of witnesses, collection of documentary evidences, CAF, CDR, e-wallets, Account statement and statement of the victim, etc., he has found the case true and submitted charge sheet against the accused.

In cross-examination, at para-30, he has admitted that the fraudulent transaction of the victim was neither verified nor named in the chargesheet as witness. In para 31 he has admitted that there is no any independent witness except the police officials.

6. The learned counsel for the appellant has raised the legal issue and submitted that the appellant has been punished under Sections 419 and 420 of I.P.C. and Section 66D of the IT Act.

7. Sections 419 and 420 of I.P.C. reads as under: -

> *"**419. Punishment for cheating by personation**. - Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*
> ***420. Cheating and dishonestly inducing delivery of property**.- Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.*

8. Section 66D of the IT Act reads as under: -

> ***66D. Punishment for cheating by personation by using computer resource**- Whoever, by means for any communication device or computer resource cheats by personation, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine which may extend to one lakh rupees."*

9. Cheating has been defined under Section 416 of IPC which is quoted herein below: -

> ***416. Cheating by personation**. - A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is other than he or such other person really is.*

10. Referring to the above sections of IPC as well as of the IT Act, submission has been advanced that cheating is an offence and that is

victim oriented. Unless and until victim says that he/she has delivered the valuable property, either through impersonation or misrepresentation or through investment, then only the offence is made out. Even if there is transaction of money, but no complaint is made by the person who has given the money, then no offence is made out since offence is person specific i.e. victim specific.

11. Referring to the evidence brought on record, it has been submitted that no victim has been brought on record, rather nobody has made a complaint that he has been cheated by this appellant.

12. On above basis, the judgment of conviction has been assailed.

13. Learned counsel for the State has opposed the prayer and it has submitted that it is a case of cyber fraud committed through electronic means. In such case, the only victim does not come forward but the fact remains that transaction of money has been done.

14. Having heard the learned counsel for the parties and after perusal of the record, it appears that some evidence suggesting the transaction of money but the transaction of money is result of fraud, misrepresentation or impersonation can only be substantiated on proving by the victim. The complaint by the victim that he has been cheated is *sina qua non* for lodging prosecution or making conclusion.

15. Since, in the present case, no person has come forward stating that the money has been induced from him by adopting wrongful means, the conviction is not sustainable.

16. In view of above discussion, this Court finds that judgment of conviction is not sustainable. Accordingly, the Judgment of conviction and order of sentence dated 3rd February, 2026 passed by the learned Special Judge, Cyber Crime, Jamtara in Cyber Case No.59/2019 (Arising out of Jamtara Cyber P.S. Case No.09/2019) is hereby quashed and set aside. The appellant is in custody hence, he is directed to be released forthwith, if not wanted in any other case.

17. Pending I.As, if any, stand disposed of.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 29ih October, 2026
Vedanti/ NAFR
Uploaded on 04.11.2026