IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 1870 of 2026
Reserved on 23rd November, 2026
Decided on 25th November, 2026

Mohammad Majhar **…Petitioner**

Versus

State of HP **…..Respondent**

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the petitioner : **Mr. Anshuman Thakur, Advocate.**

For the respondent/State : **Mr. Rajpal Thakur, Additional Advocate General.**

Chirag Bhanu Singh, Judge

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") seeking post-arrest bail in case FIR No. 0287 of 2024, dated 03.11.2024 registered at Police Station Sadar Hamirpur, District Hamirpur, under Sections 318(4) Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as "BNS").

2. The facts which emerge from the status report so filed by respondent-State, is that on the basis of a written complaint

submitted by Sh. Roshan Lal Sharma-complainant, the aforesaid FIR had come to be registered. As per the complainant, on the night of 13.10.2024 at about 9:30 PM, he had received a phone call from a mobile phone bearing No. 83489-06242 from a person impersonating himself as a representative of the Punjab National Bank. The caller had informed the complainant that his KYC was pending and as such he required to link the Aadhaar of the complainant with his Bank Account. During the conversation, the complainant was induced to disclose his KYC-related information and OTPs pertaining to his bank accounts. In the process, the complainant had been duped of Rs.16,04,700.

3. During the course of investigation, the alleged fraudulent call, as per the CAF record was found to have been registered in the name of one Farid Laskar, resident of West Bengal. However, neither the said person could be traced nor his address could be verified.

4. Investigations have further revealed that the aforesaid amount of Rs.16,04,700 had been transferred to different bank accounts, which included a transaction of Rs.5,00,000 in the Bank Account No. 666002010018687 in the Union Bank of India and another transaction of Rs.5,50,000/- which had been transferred

to the Indian Overseas Bank Account No. 110801000057192 and yet another transaction of Rs.2,50,000/- to Kotak Mohindra Bank Account, besides other transaction through PayU.

5. The beneficiary of the account in Union Bank of India Account No. 666002010018687 to which an amount of Rs.5,00,000/- had been transferred was found to be in the name of the present petitioner i.e. accused-Mohammad Majhar.

6. The present petitioner/accused was arrested on 10.05.2026.

7. Further investigation have revealed that out of the total amount of Rs.5,00,000/- credited into the account of the petitioner/accused, he had withdrawn Rs.75,000/- through five ATM transactions of Rs.15,000/- each at Jabalpur. An amount of Rs.2,85,000/- had been transferred to some other account holder and an amount of approximately Rs.1,41,850/- had remained on hold in the account of the petitioner. An amount of Rs.2,00,000/- had been found to have been transferred from the account of the petitioner to one Harish Rathore on 13.10.2024. The notices issued to the other transferees had been received back unserved due to incomplete addresses and non-availability of the account holders. Neither their addresses could be verified by the

investigating agency. Their whereabouts are still unknown.

8. I have heard the learned counsel for the parties and gone through the records meticulously.

9. The learned counsel for the petitioner would however strenuously urge that the petitioner was neither named in the FIR nor there are any allegations against him in the FIR, he had neither made the telephonic call to the complainant nor had impersonated as any bank official. The mobile used was also not registered in his name. The withdrawal of cash also has not been connected by the prosecution to the present petitioner/accused. He is a rustic villager and possesses only a basic keypad phone. The bank details and the KYC particulars of the accused have already been obtained by the investigating agency and an amount of Rs.1,41,850/- has also been put on hold. The petitioner has been in custody for a fairly long time and the challan has also been filed. His incarceration is not going to advance the case of the prosecution in any manner. Furthermore, the petitioner has no prior criminal antecedants. The petitioner thus was entitled to the discretion of bail.

10. Per contra, Mr. Rajpal Thakur, learned Additional Advocate General, would contend that the petitioner has duped

the complainant of a huge amount. The petitioner/accused is a part of a organized syndicate. The whereabouts of other co-accuses could not be established and verified and the petitioner has also not cooperated with the investigating agency and has failed to get the other accused identified. He thus prayed that the bail application be dismissed.

11. Having considered the rival of contention so raised, it transpires from the record that out of the Rs. 16,00,000/- swindled by the accused only an amount of Rs.5,00,000/- is stated to have been transferred to an amount registered in the name of the petitioner/accused. Out of this an amount of Rs.1,41,850/- has been put on hold. The rest of the money has been apparently consumed by the petitioner. Apart from the petitioner, no other accused had been apprehended till day. The petitioner had come to be arrested on 10.05.2026. The challan already stands filed on 07.07.2026. The trial is stated to have also commenced, qua the petitioner.

12. Undisputedly, the accused was a part of an organized syndicate who was duping people. Apart from the complainant, many other also might have been duped. Unfortunately, apart from the petitioner/accused, the addresses of the other accused

could not even be verified by the investigating agency. Their whereabouts are still unknown, though the FIR has been registered on 03.11.2024.

13. Admittedly, no recoveries have to be made, atleast from the petitioner/accused. The petitioner/accused is in custody since 10.05.2026 and the trial has already commenced. The entire evidence would be documentary in nature. The incarceration of the petitioner thus is not likely to advance the case of the prosecution in any manner. The apprehension of the prosecution that the petitioner may flee from justice can be taken care of by putting the petitioner to strict terms. The learned counsel for the petitioner has further placed on record daily orders which show that on the last four-five occasions, the prosecution had failed to produce any evidence on behalf of the prosecution, as is clear from the orders dated 30.09.2026, 09.10.2026, 14.10.2026, 26.10.2026, 06.11.2026 & 20.11.2026 placed on record.

14. The culmination of trial thus is likely to take time. Pre-trial incarceration is otherwise generally loathed by the Courts, as has been held by the Hon'ble Supreme Court in catena of decisions including ***Union of India vs. K.N. Nazeeb 2021 (3)***

SCC 713 & Javed Gulam Nabi Shaikh vs. State of Maharashtra & ***Another (Criminal Appeal No.2787 of 2024 decided on 03.07.2024).***

15. "Bail, not jail" is the golden thread which has been running right through the various judgments rendered by the Hon'ble Supreme Court starting from ***Gurbaksh Singh Sibbia & Others v. State of Punjab, (AIR 1980 SC 1632)***, which has consistently been followed till the decision rendered in ***P. Chidambaram v. Directorate of Enforcement, (AIR 2019 SC 4198)***. The object of granting bail was further elucidated in ***Sanjay Chandra & Others v. Central Bureau of Investigation, (AIR 2012 SC 830)***. The Hon'ble Supreme Court has further reiterated that grant of bail was a general rule, as was categorically held in ***Dataram Singh v. State of Uttar Pradesh, [(2018) 3 SCC 22 : AIR 2018 SC 980]***.

16. The Hon'ble Supreme Court and this Court, in a catena of decisions, have repeatedly held that an accused is presumed to be innocent until proven guilty. The trial is still at its inception and is likely to take sufficient time. Even otherwise, the quantity of contraband recovered in the present case is intermediate. The recovery is also not solely attributed to the

petitioner. The co-accused Parul Guleria is also alleged to have been complicit in the commission of the offence.

17. For all the reasons discussed hereinabove, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two local sureties of the like amount, to the satisfaction of the learned trial Court subject to the following conditions:-

i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;

ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;

iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency;

iv) That the petitioner put his appearance before the Court on each and every hearing, until or unless, he has been exempted by the Court in this behalf;

v) That the petitioner shall report before the Investigating Officer, once every month i.e. 10th day of

every month till the culmination of the trial.

18. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the disposal of the present petition.

19. The petition stands accordingly disposed of. A copy of this order be sent to the Superintendent, District Jail, Hamirpur, H.P. and the learned Trial Court by **FASTER.**

20. Petition stands disposed off in the aforesaid terms, so also the pending miscellaneous applications, if any.

(Chirag Bhanu Singh)
Judge

25th November, 2026
(Ritu)

RITU RANI

Digitally signed by RITU RANI
Date: 2026.11.25 16:33:32 +0545