IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

209 ***CRM-M-3034-2026 (O&M)***
Date of decision: 20.03.2026

Mohd Sahil

......*Petitioner*

Versus

State of Haryana

.....*Respondent*

CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Sanjeev Kumar Bawa, Advocate for the petitioner.

AARADHNA SAWHNEY, J (ORAL)

1. By virtue of the present petition under Section 483 BNSS, petitioner, who is an accused in case bearing FIR No.210 dated 20.09.2025 under Sections 318(4),319,336(3),338,340,3(5) of BNS and Section 42(3)(E) of the Telecommunication Act, 2023 (Sections 241,319(2),340(2) of BNS added later on) at P.S Cyber Crime, Nuh, District Mewar, has prayed for grant of bail.

2. Relevant facts as mentioned in the status report filed by way of affidavit dated 05.02.2026 of Ayush Yadav, Assistant Superintendent of Police, Nuh be noticed hereinbelow:

> "*That the brief facts of the present case are that on 20.09.2025, S.I Sohrab along with other police officials was present near Adbar Chowk for crime detection and control duty. At that time, information was received that one Mohd. Sahil is involved in cyber fraud by using the fake mobile sim card and he is standing near the Mumbai Expressway bridge, Jaisinghpur and if raid is conducted, he can be apprehended. Believing the information as true, S.I. Sohrab and other officials raided at the place disclosed by the secret informer and on seeing the police party two persons tried to flee from the spot but the said S.I. caught hold of them. On asking, they disclosed their names as Mumtaj son of Ayyub and Mohd. Sahil son of Aamin, residents of village Tonka, P.S. Uttawar, District Palwal.*

On enquiry of Mumtaj, one mobile phone make Oppo bearing IMEI no. 861451059180656/49 having two sim bearing no. 7027795366 and 7027795356 were found from which one whatsapp account was login from mobile no. 7027795366 with profile name 'I'm Imtiaz Tonkya' and another whatsapp account was login from mobile no. 7291986785 with profile name 'Islam Qureshi' and some illegal chats, illicit photographs, name of medicine details, screen shots of fake transactions and photographs of QR code sent by this account were found. On enquiry of Mohd. Sahil, one mobile phone make Samsung S24 bearing IMEI no. 352722661628399/97 having two sim bearing no. 8396835429 and 8396835457 were found from which one whatsapp account was login from mobile no. 7027795366 with profile name 'Sahil Tonkya' and same were taken into police possession vide recovery memo. On the aforesaid sim bearing no. 7291986785, two cyber fraud complaints were found registered in Police Station Hyderabad City, Andhra Pradesh vide complaint no. 33707250029092 of Rs. 5899/- and in Police Station Samsuddin, Surat, Gujarat vide complaint no. 31108250153256 of Rs. 1,000/-. The aforesaid sim bearing no. 7291986785 was found to be registered in the name of one Rajiv Tomar. On the basis of aforesaid facts which led to registration of instant case. With these observations, a prayer for legal action was made. Thereupon, the above mentioned FIR No. 210 dated 20.09.2025 u/s 318(4), 319(2), 336(3), 338, 340(2), 3(5) BNS and 42(3)(E) Telecommunication Act (Later on added Section 241 BNS) was registered at P.S. Cyber, Nuh.

3. During the course of investigation, present petitioner Mohd. Sahil and Mumtaj were arrested on 20.09.2025. In their separate disclosure statements, they confessed to their involvement in the commission of crime and also elaborated upon the *modus operandi* used by them. Call detail records of Mobile Nos.7027795366, 7027795356 and 7291986785 were collected when it came to the notice of the Investigating Officer that two Sim bearing Nos. 7027795366 and 7027795356 had been issued in favour co-accused Mumtaj whereas Mobile No.

7291986785 was found to be in the name of one Rajiv Tomar. Two Sim Card bearing Nos.8396835429 and 8396835457 were found to have been issued in the name of petitioner. Both the complainants namely Suraj Parsad and Samsuddin were contacted and it was found that both of them had been deprived of their hard earned money by playing fraud on them. The said money was found deposited in account No.20012316306558, which was in the name of co-accused Mumtaj.

On completion of investigation, challan was presented. So far as the role of the petitioner is concerned, as per prosecution, he had purchased the mobile Sim No.7291986785 from one Bilal for Rs. 1,000/- and had provided the same to co-accused Mumtaj.

Petitioner moved an application for grant of bail. The same was dismissed by the learned Additional Sessions Judge, Nuh vide order dated 12.01.2026. Aggrieved of which, the present petition has been filed.

4. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case only on account of his proximity with main accused Mumtaj. Defrauded amount was also credited in account of co-accused Mumtaj. No incriminating material was collected during the course of investigation by the I.O to indicate that any any stage, petitioner received amount from any of the complainants. Continuing further, learned counsel contends that on culmination of investigation, challan stands filed, even charges have been framed, but for reasons best known, the prosecution witnesses are deliberately not appearing before the trial court, thus delaying the trial. In this context, copies of interim orders dated 06.02.2026, 20.02.2026, 27.02.2026 & 06.03.2026 passed by the JMIC, Nuh have also been placed on record. It is in the light of submissions advanced hereinabove, that learned counsel contends that further incarceration of

petitioner would not serve any useful purpose. Thus, prayer for allowing the petition has been made.

5. On the contrary, learned State counsel, while opposing the prayer for grant of bail, contends that in the light of seriousness and gravity of allegations, as also the fact that cyber crimes are on the rise, serious view needs to be taken. If extended the concession of bail, likelihood of the petitioner fleeing from the process of justice by not appearing in the court and overawing the complainant/related witnesses are quite high. Dismissal of the petition has been prayed for.

6. I have heard learned counsel for the parties and perused the paper book with their able assistance.

7. As per the case set up by the prosecution, petitioner after purchasing the mobile Sim No.7291986785 from one Bilal for Rs.1000/- had handed over the same to co-accused Mumtaj. Two of them used to telephonically contact various persons and on one pretext or the other, used to play fraud on them and thus deprive these innocent persons of their hard earned money. Insofar as the present case is concerned, both the complainants were deprived of Rs.5899/- and Rs.1000/-.

8. It is settled that grant or refusal of bail is the discretion of the Court. Factors to be kept in mind while granting the concession of bail have been discussed by the Hon'ble Supreme Court in several cases. The essence being that while exercising powers under Section 439 Cr.P.C. (Pari materia to Section 483 of BNSS), the Court has to take into consideration various para meters including the nature of the charge, evidence, seriousness and gravity of offence, punishments to be awarded to a person, if he is convicted, his past antecedents etc. Thus, there can

be no straight jacket formula for exercising the discretion and each case has to be examined on its peculiar facts.

Hon'ble Supreme Court in **Sanjay Chandra v. CBI, (2012) 1 SCC 40**, had held as under:-

> "21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.
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> 22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, `necessity' is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.
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> 23. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any Court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson.
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> 46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of

the fact that the offences alleged, if proved, may jeopardize the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI.

47. In the view we have taken, it may not be necessary to refer and discuss other issues canvassed by the learned counsel for the parties and the case laws relied on in support of their respective contentions. We clarify that we have not expressed any opinion regarding the other legal issues canvassed by learned counsel for the parties.

48. In the result, we order that the appellants be released on bail on their executing a bond with two solvent sureties, each in a sum of Rs.5 lakhs to the satisfaction of the Special Judge, CBI, New Delhi on the following conditions :-

(a) The appellants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts or the case so as to dissuade him to disclose such facts to the Court or to any other authority.

(b) They shall remain present before the Court on the dates fixed for hearing of the case. If they want to remain absent, then they shall take prior permission of the court and in case of unavoidable circumstances for remaining absent, they shall immediately give intimation to the appropriate court and also to the Superintendent, CBI and request that they may be permitted to be present through the counsel.

(c) They will not dispute their identity as the accused in the case.

(d) They shall surrender their passport, if any (if not already surrendered), and in case, they are not a holder of the same, they shall swear to an affidavit. If they have already surrendered before the Ld. Special Judge, CBI, that fact should also be supported by an affidavit.

> (e) We reserve liberty to the CBI to make an appropriate application for modification/recalling the order passed by us, if for any reason, the appellants violate any of the conditions imposed by this Court."

In Bihar Fodder Scam case, Hon'ble Supreme Court after taking into consideration the seriousness of the charges alleged and the maximum sentence of imprisonment that could he imposed including the fact that the appellants were in jail for a period more than six months as on the date of passing of the order, was of the view that the further detention of the appellants as pre-trial prisoners would not serve any purpose.

In **Dipak Shubhaschandra Mehta v. CBI, 2012(4) SCC 134**, Hon'ble Supreme Court held as under:-

> *"18. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted, particularly, where the accused is charged of having committed a serious offence. The Court granting bail has to consider, among other circumstances, the factors such as a) the nature of accusation and severity of punishment in case of conviction and the nature of supporting evidence; b) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and; c) prima facie satisfaction of the court in support of the charge. In addition to the same, the Court while considering a petition for grant of bail in a non-bailable offence apart from the seriousness of the offence, likelihood of the accused fleeing from justice and tampering with the prosecution witnesses, have to be noted."*
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> *(emphasis added).*

Hon'ble Supreme Court in **Satender Kumar Antil v. Central Bureau of Investigation, 2023(1) SCC (Crl.) 1**, elaborated upon the factors to be kept in mind while deciding the bail petitions in economic offences and held that the law laid down in **P. Chidambaram v. Directorate of Enforcement, (2020) 13 SCC 791**, <u>will govern the field. In P. Chidambaram's case (supra), it was held as under:-</u>

> *"Thus from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic jurisprudence relating to bail remains the same inasmuch as the grant of bail*
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> *is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provides so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle.*

> *But ultimately the consideration will have to be on case to case basis on the facts involved therein and securing the presence of the accused to stand trial."*

9. Reverting back to the facts of the case in hand, factual aspects leading to lodging of FIR have already been noticed in para 2 of this order. Be that as it may, taking into consideration the fact that petitioner has been in custody since 20.09.2025 (offences in question being magisterial trial), the likelihood of completion of trial in the near future is quite remote as none out of nine prosecution witnesses have been examined, this Court is of the opinion that no useful purpose would be served by further detention of the petitioner, as the same, without the prospect of trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India, including right to speedy trial and would, thus, also be against the principle of "Bail is a general rule and incarceration is an exception" as held by Hon'ble Supreme Court in **Dataram vs. State of Uttar Pradesh and another, 2018(2) R.C.R. (Criminal) 131.**

10. Resultantly, petitioner is granted the concession of bail subject to his furnishing bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned. The petitioner shall abide by the following conditions:-

> *(i) The petitioner will not tamper with the evidence during the trial.*
> *(ii) The petitioner will not pressurize/ intimidate the prosecution witnesses.*
> *(iii) The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.*
> *(iv) The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.*
> *(v) The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the*

Court or to any police officer or tamper with the evidence in any manner.

(vi) The petitioner shall not in any manner misuse his liberty.

(vii) The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.

(viii) The petitioner shall not leave the country without prior permission of the trial Court.

(ix) The trial Court/Duty Magistrate may impose any other condition, as deemed appropriate while releasing the petitioner.

11. Accordingly, the present petition is allowed and it is made clear that in case there is any breach of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, it is clarified that the observations made herein are limited for the purpose of present proceedings and would not be construed as an opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

20.03.2026 **(AARADHNA SAWHNEY)**
manoj **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No