IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

134 **CRM-M-57369-2025 (O&M)**
Date of decision : 25.02.2026

Motahar Hossain Sekh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Sukhbir Maandi, Advocate for the petitioner.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

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SURYA PARTAP SINGH, J.

This petition for bail is the first petition, filed by the petitioner under Section 483 of 'the Bharatiya Nagarik Suraksha Sanhita, 2023'. It has been filed with regard to a case arising out of FIR No.163 dated 09.10.2020, for the commission of offence punishable under Sections 420, 120-B of Indian Penal Code and Sections 66(c) and 66(d) of Information Technology Act, 2000, Police Station Tarsikka, District Amritsar (Rural).

2. The abovementioned FIR came into being at the instance of 'Randeep Singh', hereinafter being referred to as 'complainant' only. It was stated by the above-named complainant that on 24.08.2020 at about 01:11 pm, he received a call on his mobile phone from Mobile No.89186-84593 and demanded the details of bank ATM, which led to withdrawal of Rs.5,27,000/- from his account. According to complainant, when he

enquired about the abovementioned withdrawal from the Bank and filed a complaint, the Bank gave him complaint ID, but did not return the money. In view of above, the assistance of police for return of money had been sought by the complainant.

3. It is the case of the prosecution that in view of abovementioned complaint, an enquiry was conducted with the help of Cyber Cell Amritsar (Rural), and then the FIR of this case was lodged.

4. It is further case of the prosecution that during the course of investigation, it was revealed that the abovementioned money was transferred in the name of a person, namely Junaid Ansari R/o Chetnari, District Deoghar, Jharkhand and when the details of abovementioned mobile No.89186-84593 were enquired, it was found that it was being used by a person, namely Mohatar Hossain Sekh (petitioner herein). According to prosecution, during the course of investigation it was found that the above-named persons in connivance with each other had siphoned-off funds from the account of complainant, and therefore, the FIR was lodged against them. It has been further alleged by the prosecution that the petitioner, in whose name the SIM card was issued and whose Aadhaar Card was linked with the abovementioned mobile number, was taken into custody.

5. Since advance notice has already been served upon the State, Mr. Eklavya Darshi, Deputy Advocate General, Punjab accepts notice on behalf of respondent-State. Hence service of notice is hereby dispensed with.

The learned State Counsel has filed reply as well as custody certificate of the petitioner. The same be taken on record.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the petitioner is innocent having no nexus, whatsoever, with the commission of crime, and that he has been falsely implicated in the present case. According to learned counsel for the petitioner, in fact the petitioner is a poor person, who is almost illiterate, and that he is not aware of the circumstances under which the SIM issued in his name had been misused by the fraudsters. While claiming that no benefit has been drawn by the petitioner with the abovementioned transactions, the learned counsel for the petitioner has pleaded that in view of period of incarceration and the fact that offence is triable by the Court of Judicial Magistrate, the petitioner may be released on bail.

8. The learned State Counsel has controverted the abovementioned arguments. According to learned State Counsel, there is direct nexus between the commission of crime and the petitioner, as the Aadhaar Card of the petitioner is linked with the number, which was used by the fraudsters for siphoning-off the money from the account of complainant. As per learned State Counsel, the co-accused of the petitioner, Junaid Ansari, is still at large. According to learned State Counsel, since the offence committed by the petitioner comes within the ambit of 'financial fraud', the

petitioner does not deserve a lenient view. The learned State Counsel has contended that the present petition deserves dismissal.

9. The record has been perused carefully.

10. A perusal of record shows that in the present case, following are the relevant factors which are required to be taken into consideration, for arriving at any decision: -

i) that allegations against the petitioner are with regard to cyber fraud;

ii) that the nexus between the commission of crime and the petitioner is, *prima facie*, proved from the fact that the mobile number linked with the Aadhaar Card of the petitioner was used by the fraudsters for calling the complainant;

iii) that the custody period of petitioner is merely six months and this period of detention, cannot be termed to be a period of prolonged incarceration, which may invite an inference that there is denial of right of speedy trial to the petitioner; and

iv) that the offence committed by the petitioner comes within the ambit of 'financial fraud', which does not warrant a lenient view.

11. If the cumulative effect of all the abovementioned factors, involved in the instant case, is taken into consideration it leads to a conclusion that the petitioner is not entitled for the benefit of bail, and that the present petition being devoid of merit deserves dismissal.

12. Accordingly, the present petition is hereby ***dismissed***.

13. However, it is clarified that the abovementioned observations shall not have any bearing upon the merits of the case.

14. Pending miscellaneous application(s), if any, also stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)
JUDGE

25.02.2026
Gaurav Thakur

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