IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

244 **CRM-M-69155-2025**

Chailesh Sharma

....Petitioner

V/s

State of Haryana

....Respondent

Date of decision: 15.01.2026

Date of Uploading : 15.01.2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manoj Tanwar, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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SUMEET GOEL, J. (Oral)

1. Present second petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.339 dated 27.12.2023, registered for the offences punishable under Sections 409, 420 & 120-B of IPC at Police Station Udyog Vihar, District Gurugram.

2. The petitioner had earlier applied for grant of regular bail before this Court which was dismissed as withdrawn on 11.08.2025. The relevant part of said order reads as under:-

> *"3. Learned counsels for the petitioner(s), after arguing for sometime, seek to withdraw the petition(s) in hand, at this stage..*
>
> *4. Ordered accordingly."*

3. The gravamen of the FIR in question is that the complainant, Amit Kumar Singh, Authorised Signatory of One97 Communications Limited (hereinafter referred to as 'OCL'), lodged a complaint alleging

large-scale financial fraud committed by present and former employees/agents of Radical Minds Technologies Private Limited (RMTPL) in connivance with other beneficiaries. It has been alleged that OCL, a leading fintech company operating the Paytm platform, had entered into a Master Services Agreement with RMTPL for providing call centre and customer support services. However, certain employees/agents of RMTPL were granted controlled access to OCL's Seller Panel for the limited purpose of processing legitimate refunds. According to the prosecution, the said access was dishonestly misused by the accused persons, who in criminal conspiracy processed unauthorised and fraudulent refunds, including partial refunds and diverted the funds to accounts of known and unknown beneficiaries, thereby causing wrongful loss of approximately ₹8.06 crores to OCL. In total, 2305 fraudulent refund transactions were allegedly carried out during the period from 18.05.2023 to 09.06.2023. During investigation, it was found that amounts of ₹8,69,667/-, ₹18,14,423/- and ₹78,00,000/- were credited into the accounts of accused Lokesh Kumar, Manish Kumar and Chailesh Sharma (petitioner herein) respectively, which were further transferred to other accounts. Based on these set of allegations, the instant FIR was registered and investigation ensued. The petitioner, along with other co-accused, was arrested on 28.04.2025. After completion of investigation, the final report/challan has been presented before the competent Court.

4. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question and has no direct role in the alleged offence. Learned counsel has further iterated that

the petitioner is neither an employee nor an agent of Radical Minds Technologies Private Ltd and has no access to the internal system or Seller Panel of the complainant company. According to learned counsel, the petitioner never processed any refund transaction and had no knowledge of the alleged fraudulent activities. Learned counsel has further submitted that the petitioner is not the mastermind of the alleged fraud and no overt act has been attributed to him except the alleged receipt of certain amounts in his bank account. Learned counsel has argued that mere receipt of money without any material showing conscious knowledge or criminal intent is not sufficient to attract the ingredients of the offences alleged. Learned counsel has further submitted that the investigation has been completed, the challan has already been presented before the competent Court of jurisdiction and no further recovery is to be effected from the petitioner. Furthermore, the entire evidence in the present case is documentary in nature and is already in custody of the investigating agency, therefore, no useful purpose would be served for continued incarceration of the petitioner. On the strength of aforesaid submission, the grant of petition in hand is entreated for.

5. *Per contra,* learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the allegations raised against the petitioner are serious in nature. Learned State counsel has referred to reply/status report dated 09.01.2026 by way of affidavit of Vishal, HPS, Assistant Commissioner of Police, EOW-I and II, Gurugram, relevant whereof reads as under:

> *"11. That the role of the petitioner Chailesh Sharma is that he used to run a CSC Centre and he was in contact with accused Lokesh. The petitioner had conspired with accused Lokesh and in pursuance of the conspiracy.*

The petitioner had provided the credit cards to accused Lokesh and he had got reverted the amount of Rs.78,37,018/- in his Paytm account no.918010888188. The petitioner had kept 10% of the said amount and gave the remaining amount to accused Lokesh. In this way, the petitioner obtained unlawful gains."

Furthermore, learned State counsel has raised submission in tandem with the aforesaid reply and has iterated that the petitioner was the direct beneficiary of the fraudulent transactions. Furthermore, the receipt of a substantial amount in the bank account of the petitioner clearly establishes his involvement at this stage. Learned State counsel has submitted that there is reasonable apprehension that in case he is enlarged on bail, at this stage, the petitioner may tamper with the evidence and influence the material witnesses who are yet to depose before the Court below. In view of the nature of the allegations, the gravity of the offence and the stage of trial learned State counsel prays for the dismissal of the instant petition.

6. I have heard learned counsel for the rival parties and have perused the available record.

7. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

9. The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has fundamental ascendency over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress *the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*

9.1 An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.

9.2 The Hon'ble Supreme Court in case of ***Babu Singh*** *case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in* ***Kalyan Chandra Sarkar*** *(supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

9.3 The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).

9.4. The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.

9.5 No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.

10. As an epilogue to the above discussion, the following principles emerge:

I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.

II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.

III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.

IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).

V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed."

8. The contentions raised by learned counsel for the petitioner were available to the petitioner at the time when the first petitioner for regular bail was dismissed. Thus, as such no fresh substantial change in the circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of regular bail. For maintaining a second petition for bail, it is *sine-qua-non* to bring forth change in circumstances. This fact assumes more importance when no undue delay in trial has been brought forth. The first regular bail petition filed by the petitioner was dismissed as withdrawn on 11.08.2025 and, indubitably, approximately 4½ months have passed since then. However, since the first regular bail petition was dismissed as withdrawn and there was no adjudication on merits thereof, this Court deems it appropriate to decide the instant one on merits thereof as well.

9. The grant of bail falls within the discretionary domain of the Court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing and overall conduct of the accused play a crucial role. Furthermore, the

Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490,*** relevant whereof reads as under:

> *14. It is well settled that the matters to be considered in an application for bail are (i)whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused;(vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see* ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280*** *and* ***Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179****). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in* ***Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528*** *:"The law in regard to grant or refusal of bail is very well settled. 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 merit 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. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:*
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> *a. The nature of accusation and the 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.

*c. Prima facie satisfaction of the **court** in support of the charge. (see **Ram Govind Upadhyay v. Sudarshan Singh, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 andPuran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338."***

This Court also in specific terms held that :

*"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High **Court** has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

*In **Panchanan Mishra v. Digambar Mishra, 2005(1) Apex Criminal 319 : 2005(1) RCR(Criminal) 712 (SC) : 2005(3) SCC 143,** this Court observed :*

"The object underlying the cancellation of bail is to protect the fair trial and secure justice being done to the society by preventing the accused who is set at liberty by the bail order from tampering with the evidence in the heinous crime..... It hardly requires to be stated that once a person is released on bail in serious criminal cases where the punishment is quite stringent and deterrent, the accused in order to get away from the clutches of the same indulge in various activities like tampering with the prosecution witnesses, threatening the family members of the deceased victim and also create problems of law and order situation."

10. Indubitably, the allegations in the present case disclose a well-planned and organized financial fraud involving misuse of digital infrastructure and internal systems of a reputed fintech company. Such offences not only cause financial loss to a private entity but also undermine

public confidence in digital payment systems and electronic financial transactions. The role attributed to the petitioner cannot be brushed aside lightly at this stage. The investigation has specifically revealed that a substantial amount forming part of the proceeds of crime was credited into the bank account of the petitioner. Whether the petitioner was an active conspirator is a matter of trial, however, at this stage, the existence of such incriminating material cannot be ignored. The contention that the petitioner is not the main accused or that the evidence is documentary does not, by itself, entitle him for grant of bail, particularly in cases involving criminal conspiracy and large-scale financial fraud.

11. It is well settled that economic offences involving large-scale financial fraud require a strict approach while considering bail. The seriousness of the allegations, the quantum of money involved and the *prima facie* material on record indicate the involvement of the petitioner at this stage. The allegations leveled against the petitioner are grave and specific which clearly indicate his active participation in the commission of the crime. In the considered opinion of this Court the very magnitude and seriousness of the crime, disentitle the petitioner to the discretionary relief of bail. Furthermore, at this stage, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially in light of the gravity of the allegations and the evidence on record. It is also to be borne in mind that offences of this nature strike at the very root of public order and societal conscience. Granting bail in such cases would not only undermine the gravity of the offence but may also embolden the accused. Further, there

exists a strong likelihood that if enlarged on bail the petitioner may abscond to evade trial or attempt to influence, threaten, or intimidate prosecution witnesses particularly when material witness(s) are yet to be examined. The mere fact that the investigation has been completed and challan has been filed cannot, in itself, constitute a ground for bail in cases of such grave and heinous character.

12. Considering the overall circumstances, the nature and seriousness of the accusations, the evidence on record, and the possibility of tampering with prosecution witnesses, this Court finds no merit in the present petition. Accordingly, this Court is of the considered opinion that the petitioner does not deserve the concession of regular bail.

13. In view of the prevenient ratiocination, it is ordained thus:

(i) The present petition is devoid of merits and is hereby dismissed.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(iii) Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

January 15, 2026
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No