



2025:DHC:3698



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Reserved on: 29th April 2025

Pronounced on: 14th May, 2025

+ BAIL APPLN. 731/2025 & CRL.M.A. 5303/2025 INTERIM RELIEF, CRL.M.A. 5305/2025 SEEKING LEAVE TO FILE SYNOPSIS AND LIST OF DATES EXCEEDING FIVE PAGES

SHAMIKH SHAHBAZ SHAIKHPetitioner

Through: Mr. Aditya Wadhwa, Mr. Sougat Mishra, Mr. Rohit Shukla and Ms. Nitika Duhan, Advs.

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: Mr. Aman Usman, APP for the State.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

RAVINDER DUDEJA, J.

1. The present application has been filed seeking anticipatory bail in connection with FIR No. 30/2023 under Sections 419/420 IPC registered at Police Station Cyber Police Station, Rohini, Delhi.

2. FIR No. 30/2023 was registered at PS Cyber, Rohini, on the complaint of Pradeep Kumar Behera, who alleged being defrauded of Rs. 17,95,000/- in an online part-time job scam. The complainant was induced via WhatsApp and Telegram to perform investment-based tasks and transferred money from his Canara, SBI, and Federal Bank



accounts, including Rs. 9,00,000/- to a Yes Bank account held by M/s Sanofi Enterprises. The funds were subsequently traced to ICICI Bank (M/s S.S. Fashion), then Axis Bank (Rapipay Fintech Pvt. Ltd.), and finally credited through agent Feroz Ibrahim Shaikh, whose IP logs were linked to the Applicant. Investigation further revealed that the Applicant was a Rapipay agent, had several complaints against his virtual account, and was connected to co-accused Mohammed FauzanHajatay, his brother-in-law, who was involved in fund collection. IP addresses linked to Feroz's Rapipay ID also matched the travel itinerary of the Applicant's other brother-in-law, Rehan, suggesting coordinated activity.

3. According to the Applicant's counsel, on 24.01.2025, officers from Cyber PS, Rohini, including IO SI Rahul Malik, visited the Applicant's Pune residence and served a Section 41A Cr.P.C notice to his father, summoning the Applicant for investigation on 10.02.2025. The Applicant later learnt from mutual contacts that co-accused Feroz Ibrahim Shaikh had been subjected to police brutality and denied a copy of his 41A notice, prompting the Applicant to file Anticipatory Bail Application No. 215/2025. Although the IO's status report dated 06.02.2025 linked the Applicant to the case, it failed to establish his role in the fraud, or any financial benefit derived therefrom. The Applicant complied with the summons, joined the investigation on 10.02.2025, and submitted written clarifications denying involvement, which the IO ignored while falsely alleging non-cooperation. Following the rejection of his bail on 13.02.2025, the Applicant filed a



criminal complaint against Rapipay Fintech Pvt. Ltd. for misusing his virtual account and approached the RBI with a grievance against the said company.

4. Learned counsel for the Applicant has submitted that prosecution case suffers from inconsistencies, contradictions, and lacks specific evidence linking the Petitioner to the alleged offence, with the status reports shifting the fraud amount and allegations without justification. It is argued that vague references to other pending complaints and inflated figures cannot be grounds for denial of bail, especially when the complaints are neither part of the present FIR nor supported by Section 120-B IPC to form a common conspiracy. Reliance has been placed upon *Siddharam Satlingappa Mhetre v. State of Maharashtra* (2011) 1 SCC 694, wherein the Hon'ble Supreme Court emphasized that frivolity in prosecution must be considered, and arrest must follow proper comprehension of the accused's exact role. Furthermore, in *State of Kerala v. Mahesh* (2021) 14 SCC 86, the Supreme Court reiterated the need for courts to weigh all relevant factors including evidence and extent of involvement before deciding bail applications. The counsel also relied upon *Ashish Mittal v. SFIO* 2023 SCC OnLine Del 2484, wherein it was *inter alia* held that mere recital of allegations by the prosecution is insufficient—there must be cogent material linking the accused to the offence.

5. It is further submitted that the present case falls within the framework of *Arnesh Kumar v. State of Bihar* (2014) 8 SCC 273, as



the offences are punishable up to seven years and there is no demonstrable need for custodial interrogation. The prosecution's allegation of non-cooperation is countered by citing *Santosh v. State of Maharashtra* (2017) 9 SCC 714 and *Pankaj Bansal v. Union of India* (2024) 7 SCC 576, which underscore that refusal to provide answers in a particular manner does not equate to non-cooperation. Learned Counsel also places reliance on *Sanjay Chandra v. CBI* (2012) 1 SCC 40 to assert that the gravity of an offence alone cannot be a ground for denial of bail. It has been emphasized that the presumption of innocence remains in favour of the Applicant, who meets the "triple test" for bail—he is not a flight risk, is unlikely to tamper with evidence, and poses no threat to witnesses. Thus, the learned counsel submits that the denial of bail based on unsubstantiated claims amounts to a miscarriage of justice.

6. The learned Additional Public Prosecutor opposes the grant of anticipatory bail to the applicant, on the ground that he is directly linked to the fraudulent transaction as an agent of the Rapipay account used to route the proceeds of crime. It is submitted that out of the total defrauded amount of Rs. 17,95,000/-, a substantial sum of Rs. 4,00,000/- was credited to the applicant's account, indicating his active participation in the offence. The prosecution relies upon the statement of co-accused Feroz Ibrahim Shaikh, which implicates the applicant and corroborates the flow of funds. It is further contended that the offence is grave in nature, involving organized cyber fraud, and custodial interrogation is necessary to unearth the broader



conspiracy. The APP also asserts that there are no contradictions in the investigation conducted so far and the applicant's plea of innocence is a matter of trial, not bail.

7. I have heard the submissions of both the counsel and have perused the documents placed on record.

8. As per the Status Report dated 13.02.2025 (Annexure A8), although the applicant joined the investigation pursuant to court orders, he did not cooperate with the Investigating Officer. The report also highlights that 29 complaints are registered against the applicant's Rapipay virtual account, and a distributor disclosed that the applicant's brother-in-law, Rehan, collected money from retailers. Furthermore, WhatsApp chats show that a mobile number used for fund collection is registered in the name of another brother-in-law, Mohammed FauzanHajatay.

9. In *SFIO v. Aditya Sarda*, SLP (Crl.) No. 13958/2023, decided on 09.04.2025, the Supreme Court reiterated that economic offences form a distinct category and must be treated with seriousness. The Court held that anticipatory bail should be granted sparingly in such cases, especially where the accused are evading law or obstructing legal processes. It emphasized that these offences involve deep-rooted conspiracies causing significant loss to public funds and pose serious threats to the country's financial health.

10. In *Sumitha Pradeep v. Arun Kumar C.K.*, (2022) 17 SCC 391, the Supreme Court clarified that the absence of a need for custodial interrogation alone is not a sufficient ground to grant anticipatory bail.



The Court emphasized that while custodial interrogation is a relevant factor, the primary consideration should be the existence of a prima facie case against the accused, along with the nature of the offence and severity of the punishment. Therefore, even if custodial interrogation is not warranted, anticipatory bail may still be rightly denied based on the overall merits of the case.

11. Having considered the rival submissions and perused the material placed on record, this Court is of the opinion that the grant of anticipatory bail in the present case is not warranted. The allegations against the applicant pertain to a serious and organized cyber fraud wherein the complainant was duped of Rs. 17,95,000/-, a substantial portion of which, Rs. 4,00,000/- was traced to the applicant's account. The investigation reveals that the applicant was operating as a Rapipay agent and that his virtual account is the subject of 29 separate complaints. Furthermore, connections have been established through IP logs, WhatsApp chats, and fund flows between the applicant and co-accused, including his brother-in-law, who acted as the collector of the defrauded amounts.

12. This Court notes that while the applicant did join the investigation pursuant to summons, the Investigating Officer has stated that he did not cooperate meaningfully. The applicant's plea of innocence and allegations of misuse of his account are issues that will require deeper investigation and are not sufficient to merit anticipatory bail at this stage. The reliance placed on *Arnesh Kumar* (supra) and



other decisions is misplaced in view of the specific facts of this case and the gravity of the economic offence involved.

13. The Hon'ble Supreme Court in *Aditya Sarda* (supra) has emphasized that economic offences require a distinct and serious approach. The presence of a prima facie case, the applicant's role in enabling the laundering of proceeds of crime, and the need to uncover the full extent of the conspiracy collectively weigh against the grant of anticipatory bail. The present case involves financial transactions, and in such a scenario, sustained and custodial interrogation appears to be the most vital course of action. The role of the accused, as delineated and discussed above, indicates very serious allegations against him. While the Court remains conscious that any findings or observations on the quality or probative value of the evidence may be prejudicial, in light of the discussion above, the present application is dismissed as bereft of merit. Pending applications, if any, are also disposed of.

14. It is pertinent to mention that this Court has expressed only *prima facie* opinion on the merits of the allegations for the limited purpose to refuse or grant pre-arrest bail and if the applicant moves an application for regular bail, the same shall be considered on its own merits and in accordance with the law, uninfluenced by the observations made hereinabove.

RAVINDER DUDEJA, J.

MAY 14, 2025

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