



2025:DHC:11096



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: December 09, 2025*+ **BAIL APPLN. 4728/2025, CRL.M.A. 36429/2025,**
CRL.M.A. 36430/2025 & CRL.M.(BAIL) 2413/2025

SUMAN KUMAR TARAIApplicant

Through: Mr. Jitendra Kumar Singh,
Mr. Nishant Verma & Mr.
Surya Kanta, Advs.

versus

THE STATE OF NCT OF DELHIRespondent

Through: Mr. Sunil Kumar Gautam,
APP for the State
SI Mahesh Kumar, PS-
IFSO/ Delhi Police**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present application is filed seeking pre-arrest bail in FIR No. 164/2025 dated 14.05.2025 registered at Police Station Special Cell under Sections 318(4)/319(2)/3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. Briefly stated, FIR in the present case was registered pursuant to a complaint made regarding cyber fraud of ₹66,00,000/- on the pretext of trading on the share market. It is alleged that the victim had installed an App called 'Upstox' and registered himself in order to partake in small scale trading. It is alleged that after fifteen minutes of registering himself, the victim received a phone call, in which he was told to fill a form



to proceed further and was sent a link for doing the same. It is alleged that the victim was made to join a WhatsApp group namely, “VIP 2 Customer Care” where there were around 5 active members. It is alleged that the victim transferred an amount of ₹67,60,000/- through various modes as induced by the accused persons under the pretext of investing.

3. During the course of investigation, the details of bank accounts where the cheated amount had been transferred was obtained. One of the aforesaid bank accounts was registered under the name of one, Akshaya Kumar Nayak. On 04.08.2025, a raid was conducted at the residence of accused Akshaya Kumar Nayak and during the search of his residence, the mobile phone along with the sim card linked to the alleged account was recovered.

4. Thereafter, accused Akshaya Kumar Nayak was arrested and during his interrogation, he allegedly disclosed that he was approached by accused Amit Mukhi in February 2025 to start a business for which opening a current account in a bank was required. He disclosed that accused Amit Mukhi informed him that amounts from betting apps would be deposited in the said account. He disclosed that he was introduced to the applicant by accused Amit Mukhi and the applicant took his signatures on various documents and opened a bank account in his name. He disclosed that he handed over his mobile phone to the applicant. He disclosed that the applicant took him to Puri, Orissa, where they were staying in a hotel along with two other persons. He



further disclosed that the applicant handed over his mobile number which was linked to the said account to those persons in order to make the transactions.

5. The learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case.

6. He submits that the applicant was never part of any WhatsApp group through which the victim has been cheated. He submits that the applicant has clean antecedents.

7. He submits that the applicant has only been implicated in the present case because he received an amount of ₹17,000/- in his bank account from the accused Akshaya's account. He submits that the said amount was paid to the applicant as salary/advance from the diagnostic centre where he had been working part-time since April 2025.

8. He submits that there is no requirement for custodial interrogation of the applicant and he is willing to join and fully cooperate with the investigation.

9. *Per Contra*, the learned Additional Public Prosecutor for the State vehemently opposes the grant of any relief to the applicant.

10. He submits that the bank account in which the cheated amount was transferred is registered in the name of accused Akshaya Kumar Nayak, however, the mobile number linked to the said account has been found to be used in the applicant's mobile phone. He submits that both the email ids linked with the



aforesaid account have been found to be linked with the applicant's mobile phone.

11. He submits that during the analysis of the statements of the aforesaid bank account, it has been found that the applicant made several transactions from 26.04.2025 to 29.04.2025 in order to check the operational statement of the said account, before transferring the amount of ₹17,000/- to his account.

12. He submits that the CDR analysis of accused Akshaya Kumar Nayak and the applicant reveals that both of them were present in Puri, Orissa at the time of the alleged transactions.

13. He submits that the applicant is absconding and proceedings under Section 84 of the Bhartiya Nagarik Suraskha Sanhita, 2023('BNSS') have been initiated against the applicant.

14. I have heard the counsel and perused the record.

15. The considerations governing the grant of pre-arrest bail are materially different than those to be considered while adjudicating application for grant of regular bail, as in the latter case, the accused is already under arrest and substantial investigation has been carried out by the investigating agency.

16. It is trite law that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Thus, pre-arrest bail cannot be granted in a routine manner. The Hon'ble Apex Court, advertent to its previous precedents, has discussed the parameters to be considered while considering pre-arrest bail applications, in the case of *State of A.P. v. Bimal Krishna Kundu : (1997) 8 SCC 104*, has held as under:



“8. A three-Judge Bench of this Court has stated in Pokar Ram v. State of Rajasthan [(1985) 2 SCC 597 : 1985 SCC (Cri) 297 : AIR 1985 SC 969] : (SCC p. 600, para 5)

“5. Relevant considerations governing the court's decision in granting anticipatory bail under Section 438 are materially different from those when an application for bail by a person who is arrested in the course of investigation as also by a person who is convicted and his appeal is pending before the higher court and bail is sought during the pendency of the appeal.”

9. Similar observations have been made by us in a recent judgment in State v. Anil Sharma [(1997) 7 SCC 187 : 1997 SCC (Cri) 1039 : JT (1997) 7 SC 651] : (SCC pp. 189-90, para 8)

“The consideration which should weigh with the Court while dealing with a request for anticipatory bail need not be the same as for an application to release on bail after arrest.”

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12. We are strongly of the opinion that this is not a case for exercising the discretion under Section 438 in favour of granting anticipatory bail to the respondents. It is disquieting that implications of arming the respondents, when they are pitted against this sort of allegations involving well-orchestrated conspiracy, with a pre-arrest bail order, though subject to some conditions, have not been taken into account by the learned Single Judge. We have absolutely no doubt that if the respondents are equipped with such an order before they are interrogated by the police it would greatly harm the investigation and would impede the prospects of unearthing all the ramifications involved in the conspiracy. Public interest also would suffer as a consequence. Having apprised himself of the nature and seriousness of the criminal conspiracy and the adverse impact of it on “the career of millions of students”, learned Single Judge should not have persuaded himself to exercise the discretion which Parliament had very thoughtfully conferred on the Sessions Judges and the High Courts through Section 438 of the Code, by favouring the respondents with such a pre-arrest bail order.”

17. It is settled law that the custodial interrogation is qualitatively more elicitation oriented than questioning a suspect



who is well ensconced with a favourable order under Section 438 of the CrPC [*State v. Anil Sharma : (1997) 7 SCC 187*]. Granting anticipatory bail to the applicant would undoubtedly impede further investigation. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

18. In the present case, the allegations relate to a cyber fraud committed against the victim who was defrauded of an amount of ₹67,60,000/- on the pretext of investing in the share market. One of the accounts which received an amount of ₹29,00,000/- belongs to accused Akshaya Kumar Nayak and an amount of ₹17,000/- has been transferred from the said account to the applicant's bank account.

19. It is the contention of the applicant that he had received ₹17,000/- in his account as salary and has no role to play in the alleged cyber-crime syndicate.

20. However, it is pertinent to note that accused Akshaya Kumar Nayak has stated in his disclosure statement that the applicant took his signatures on various documents and opened a bank account in his name. He disclosed that he handed over his mobile phone to the applicant.

21. Moreover, accused Akshaya Kumar Nayak has disclosed that the applicant took him to Puri, Orissa, where the applicant handed over his mobile number which was linked to the said account to two persons. The CDR of the applicant and accused Akshaya Kumar Nayak also corroborates their presence in the



aforesaid area.

22. Importantly, the mobile number and emails linked to the bank account in which the defrauded amount was transferred have been found to have been used in the mobile phone linked to the applicant's phone number.

23. It is pertinent to note that the applicant has not been cooperating with the investigation and proceedings under Section 84 of the BNSS have been initiated against him.

24. Undisputedly, the present case pertains to serious allegations of digital fraud where complex technological mechanisms were employed to defraud gullible victims. Such cases, by their very nature, involve intricate methods and multiple communication devices and are used to mislead unsuspecting victims. A perusal of the case diary indicates that apart from the amount deposited by the victim in the present case, several other substantial amounts have been deposited in the account alleged to be operated by the applicant. Thus, the likelihood of there being multiple victims cannot be ruled out.

25. Cyber-crimes are on the rise and the same tend to be significantly harder to crack due to the boon of technology that is effectively misused by crooks to wreak havoc and evade the law enforcement. The task of the Investigating Agency seems arduous and they need to be given a fair play in the joints to investigate the matter in the manner they deem appropriate. The matter requires thorough investigation which ought not to be curtailed by passing an order granting pre-arrest bail.



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26. Considering the material on record, it cannot be held at this stage that the applicant has been falsely implicated. The nature and gravity of the allegations are serious. The applicant is alleged to be part of a cyber crime syndicate who have usurped a large sum of money from the victim in the present case and could possibly have many more victims.

27. Thus, in the opinion of this Court, the applicant has not established a prima facie case for grant of pre-arrest bail.

28. The present application is accordingly dismissed.

29. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

DECEMBER 9, 2025

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