



CRM-M-7194-2025

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7194-2025
Reserved on: 10.03.2025
Pronounced on: 21.03.2025

Muhammad Jamil ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Abbas. B, Advocate,
Ms. Bhumika Khatri and Mr. Sunil Kumar Dhanda, Advocate
for the petitioner.

Mr. Aashish Bishnoi, Deputy Advocate General, Haryana.

Mr. Budhadev Maity, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
210	31.07.2024	Cyber West Police Station, Gurugram	318(4), 61(2) of BNS 2023 and 66-D of IT Act

1. The petitioner incarcerated in the FIR captioned above had come up before this Court under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking regular bail.
2. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“3. That the brief facts of the present case are that a complaint was submitted by the complainant Satya Prakash Kothari on 27.07.2024 wherein he alleged that on 07.06.2024, he had received whats app messages from two mobile numbers [REDACTED] and [REDACTED]. The sender/caller induced him to invest in the stock/share market. The complainant invested Rs. 2,81,89,034/- from his two accounts no. [REDACTED] and [REDACTED] Bank) but after sometime when he tried to withdraw the alleged amount from the said app, then it was declined and he lost huge amount of money and thus became victim of Cyber fraud. Prayer was made for taking legal action. Thereupon, the above mentioned FIR No. 210 dated 31.07.2024 u/s 318(4) BNS (Later on added Section 61(2) BNS and 66-D IT Act) registered at P.S. Cyber West, Gurugram.”



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4. The petitioner's counsel prays for bail, subject to any stringent conditions, and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and his family.

5. The State's counsel opposes bail and refers to the following portion of the reply: -

"4. That during the course of investigation of the present FIR, the ID CAF and CDR of above mentioned mobile numbers 8XXXXXX and XXXXXXX were obtained. The mobile no. XXXXXXX was found to be in the name of one Muthu Bharthi and the mobile no. 8148022459 was found to be in the name of one Satish Kumar. Both the said persons were joined in the investigation and their statements u/s 180 BNS were recorded. It came forth that the said sim cards were activated in their names without their knowledge, by one R. Surya, when they had visited him for porting of their sim cards.

5. That the accused R. Surya was joined in the investigation on 04.08.2024 after issuing notice u/s 35(3) BNSS. It came forth that the said accused had fraudulently issued various other sim cards in a similar manner and he had sold as many as 120 sim cards to one Divakaran at the rate of Rs. 500/- per sim card. He was released as per the guidelines of the Hon'ble Supreme Court in "Arnesh Kumar Vs. State of Bihar".

6. That the accused Divakaran was joined in the investigation on 05.08.2024 after issuing notice u/s 35(3) BNSS. His disclosure statement was recorded wherein he stated that he had sold the above mentioned 120 sim cards to Malaysian residents namely Muhammad Jamil (present petitioner) and Kadar Gani Bin Naina Mohammad at the rate of Rs. 1,000/- per sim card. Accused Divakaran got recovered his mobile phone. In the said mobile phone, there are various whatsapp chats of the said accused with Muhammad Jamil (present petitioner). The photocopies of passports and photographs of Muhammad Jamil (present petitioner) and Kadar Gani Bin Naina Mohammad were taken into police possession. Accused Divakaran was released as per the guidelines of the Hon'ble Supreme Court in "Arnesh Kumar Vs. State of Bihar". Section 61(2) BNS was added in the present case.

7. That the Look Out Circular of Muhammad Jamil (present petitioner) and Kadar Gani Bin Naina Mohammad were got issued on 05.09.2024. On 18.12.2024, information was received from Immigration Department, Trichy International Airport, Tamil Nadu that Muhammad Jamil (present petitioner) has been detained by them as per the LOC dated 05.09.2024.

8. That thereupon, Insp. Naveen Kumar along with other officials reached Trichy Airport and the petitioner Muhammad Jamil was arrested in the present case on 19.12.2024. His disclosure statement was recorded. He was produced in the Ld. Court in Trichy (Tamil Nadu) and his transit remand was obtained for six days. His amended disclosure statement was recorded. He got recovered his Apple I-phone 11 Pro Max mobile phone and one sim card, which were taken into police possession. Section 66-D IT Act was added in the present case. He was produced before the Ld. JMIC, Gurugram on 23.12.2024 and he was sent to judicial custody. The amended disclosure statement of the petitioner is attached herewith as Annexure R-1 for kind perusal of this Hon'ble Court.

9. That the challan against the petitioner Muhammad Jamil and co-accused R. Surya and Divakaran was submitted in the Ld. Court on 14.02.2025. Now the trial is pending in the Court of Ld. JMIC, Gurugram



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and is fixed for 12.03.2025 for appearance/arguments on charge. There are total 20 PWs in the present case and none has been examined as the charges are yet to be framed.”

REASONING:

6. According to paragraph 10 of the bail petition, the petitioner has been in custody since December 18, 2024. There is sufficient prima facie evidence connecting the petitioner with the alleged fraud; however, considering the fact that the petitioner is a first offender and his pre-trial custody in relation to the amount received by him as stipulated in the status report regarding his role, it is not a case for further pre-trial incarceration.
7. Without commenting on the case's merits, in light of the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail.
8. As mentioned above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the FIR captioned above, subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before the nearest Ilaqa Magistrate or duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.
9. While furnishing a personal bond, the petitioner shall mention the following personal identification details:
- | | | |
|----|---|--|
| 1. | Passport number and details | |
| 2. | Permanent Identification Number(s) (If Available) | |
| 3. | Mobile number (If available) | |
| 4. | E-Mail id (If available) | |
10. The petitioner shall comply with all statutory bond conditions and appear before the concerned Court(s) on all scheduled dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.
11. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State may file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.
12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.
13. In *Frank Vitus v. Narcotics Control Bureau*, 2025-INSC-30, the Hon’ble Supreme



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Court holds,

[8]. In addition to what we held by judgment and order dated 08th July, 2024, we issue the following directions:

(i) While granting bail to a foreigner within the meaning of the Act, the concerned court shall issue direction to the State or prosecuting agency, as the case may be, to immediately communicate the order granting bail to the concerned Registration Officer appointed under Rule 3 of the Rules who, in turn, shall communicate the order to all concerned authorities including the Civil Authorities. If such information is furnished, it will enable the authorities under the Act, the Rules and the Order to take appropriate steps in accordance with the law;

14. Given the above, the concerned Deputy Superintendent of Police is to send a downloaded copy of this order to the Foreign Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992, framed under the Foreigners Act, 1946. Upon receiving the communication, the concerned Foreign Registration Officer shall notify all relevant authorities, including civil authorities, in accordance with the observations made by the Hon'ble Supreme Court in *Frank Vitus v. Narcotics Control Bureau*, Cr.A No. 2814-2815 of 2024, decided on January 6, 2025, Neutral Citation: 2025-INSC-30.

15. Although the Court has granted bail to the accused, the underlying issue remains unresolved, leaving the broader demands of justice unfulfilled. In the interest of fairness and impartiality, further deliberation is essential.

16. Generally, every foreign national entering India does so for a defined purpose and a finite duration. While some may engage in unlawful activities, such as cyber frauds and illicit trafficking of controlled substances, a measured legal response necessitates vigilance at the point of entry rather than the indiscriminate denial of bail. The cornerstone of an effective deterrence mechanism lies in rigorous pre-admission scrutiny-comprehensive background verifications before visa issuance and the immediate revocation of visas upon credible and substantial allegations.

17. However, when a foreign national faces criminal prosecution within Indian jurisdiction, legal proceedings may tether them to the country, disrupting their academic aspirations, familial responsibilities, commercial enterprises, and personal liberties. Justice delayed is justice denied, but in the context of foreign nationals, justice prolonged is justice misplaced. Delayed trials and resultant legal limbo engender uncertainty in these individuals, compounding their fears within an unfamiliar jurisdiction and an unaccustomed to, legal system. Recognizing the far-reaching repercussions of protracted litigation, it is incumbent upon the judiciary to ensure the expeditious resolution of such cases, whether the accused is in custody or released on bail. Accordingly, this Court



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requests the Trial Court to prioritize and accelerate adjudication in this matter, balancing the necessities of due process with the principles of swift and faultless justice.

18. A certified copy of this order is not required for furnishing bonds. Any advocate for the Petitioner can download this order, along with the case status, from the official website of this Court and attest that it is a true copy. If the attesting officer wishes to verify its authenticity, they may download it from the official webpage of this Court and use the downloaded copy for attesting bonds.

19. Petition allowed in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

21.03.2025
anju rani

Whether speaking/reasoned: Yes
Whether reportable: YES.