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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 3rd December, 2025

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BAIL APPLN. 3199/2025, CRL.M.A. 24810/2025 and
CRL.M.A. 28103-28104/2025

SHASHANK PATHAK

S/o Shri Vijendar Pathak
 R/o F-1674, Rampark Extension,
 Haqiqat Nagar, urf Khudawas,
 Ghaziabad, UP-201102.

.....Petitioner

Through: Mr. Rajat Singh and Mr. Sarthak
 Chandra, Advocates.

versus

STATE OF NCT OF DELHI

Through IO
 P.S. Special Cell,
 District New Delhi, New Delhi-110001.

.....Respondent

Through: Mr. Utkarsh, APP for the State

CORAM:**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. First Regular Bail Application under Section 483 read with Section 528 B.N.S.S. has been filed on behalf of the Petitioner Shashank Pathak in case FIR No.06/2025 under Section 318(4)/319(2)/61(2)/3(5) BNS registered at Police Station Special Cell.
2. The Petitioner has submitted that his Bail Application has been rejected by the learned Addl. Sessions Judge on 11.07.2025. The



Chargesheet already stands filed in the Court on 07.05.2025. The Applicant is in Judicial Custody since 10.03.2025.

3. It is submitted that the FIR in question was registered at the instance of the Complaint against the unknown persons wherein he alleged that he has been a victim of cyber crime between the period of 01.12.2024 to 03.01.2025. He claimed that he had suffered a total loss of Rs.2,62,39,965.16/- in the online scam which was perpetuated through a mobile Application called “SMC Global Securities App”. The Complainant claimed that fake identity of one Mr. Ajay Garg purported to be the CEO of SMC Global & customer Care Services, was used and a fake group by the name of A105 Progress Forum was created. The said persons approached the Complainant through WhatsApp and offered IPO subscriptions and thereafter, sold fake IPO Shares to the Complainant. When the said persons did not allow him to withdraw the money, he realized that he is a victim of cyber crime.

4. During the investigation, the bank account statements of the Complainant were analyzed, which reflected that he transferred a sum of Rs.20,00,000/- out of the total alleged scam amount, into the bank account of M/s Shri Ram Travels, whose authorized signatory and proprietor herein was the Applicant herein.

5. The Applicant claims that one Shubham Raghav had introduced him to one Ashish, who then helped the Applicant in registering his proprietorship Firm and also instructed the Applicant to open a bank account of the proprietorship Firm. Since the Applicant was under huge financial stress, Ashish gave him hope of financial benefit if he opened the



proprietorship Firm's bank account, which was mostly run and used by Ashish.

6. The Applicant further asserted that he had no idea that there was money being received in the account and that the same was being transferred to other Accounts.

7. The Applicant was served with a Notice under Section 35 B.N.S.S. on 27.02.2025 to appear before the Investigating Authority, when he first realized about the registration of the present FIR. In compliance of the Notice, the Applicant appeared before the Investigating Officer on 10.03.2025, but he was arrested on the same day even though he had fully cooperated with the investigations and there was no possibility of him evading the investigations.

8. The three Bail Applications, filed earlier, have all been dismissed.

9. The Bail is sought on the ground that he had joined the investigations when served with Notice under Section 35 B.N.S.S. by the I.O and had always readily joined the investigations and presented himself before the Investigating Officer. The Applicant claimed that his account was misused by one Ashish and Shubham Raghav, as has already been informed by him, to the I.O. He had opened his Proprietorship Firm at the instance of Ashish through Shubham Raghav, who has admitted it before the I.O. The Applicant had no knowledge about the transactions done through his account. He himself is a victim of the alleged fraud and has been implicated falsely in this case.

10. The learned ASJ dismissed the Bail essentially on the basis of the Reply of I.O who had stated "*the accused is also involved in other*



Complaints as per NCRP Portal". It is submitted that this statement is not supported by any document to prove the genuineness/veracity of the statement. It is further asserted that though in the FIR, the Complainant had alleged that he had been approached by some unknown persons impersonating to be the employees of SMC Global Securities through WhatsApp messages, but no such WhatsApp message has been placed on record during the investigations, connecting the Petitioner to the alleged scam. Moreover, he has not been named in the FIR.

11. The Prosecution has failed to analyze the CDR showing any sort of communication between the Applicant and the Complainant. It all reflects that he has been falsely implicated in this case. The alleged Bank Statements accounts produced by the Prosecution, clearly proved that the Petitioner had not benefitted in any way from the transactions and also that the amounts have been disbursed to other various bank accounts not to link to him. These facts are also reflected in the Chargesheet.

12. Furthermore, the I.O has not verified the ultimate beneficiary of the alleged fraud till date for which the Applicant cannot be made to suffer. It is claimed that the I.O has failed to make any effort to nab the real culprits and has made no arrests apart from that of the Applicant, which leads to serious doubts about the genuineness of the investigations and raises an apprehension that he has been made a scapegoat for the real perpetrators of the alleged fraud.

13. The Complainant is a highly educated person and he got himself caught in a situation where he got cheated as the money was transferred in 24 different accounts without verifying the details of accounts and without



meeting any of the account holders.

14. The Applicant is not likely to abscond and his family resides in National Capital Region. He has deep roots in India and undertakes to join and cooperate during the investigations and the trial.

15. Reliance is placed on State of Kerala vs. A. Pareed Pillai (1972) 3 SCC 661 and Rekha Jain vs. State of Karnataka (2022) 18 SCC 174.

16. Hence, a prayer is made that he may be granted Bail.

17. ***Learned APP for State has argued*** that the Complainant has been cheated of Rs.2,62,39,965.16/-. The complicity of the Applicant is well evident from the fact that it was his Account which was used for transfer of Rs.20,00,000/- which got transferred to further Accounts. There is full WhatsApp connectivity and all the messages of the credit to his Account, were being transmitted through WhatsApp messages. He cannot assert that he was not aware that the money was being credited to his Account. The CDR record also traced the Mobile phone linked to this Account, to the residence of the Applicant. There is enough evidence to show his complicity and he cannot claim any ignorance. The Bail is, therefore, opposed.

Submissions heard and record perused.

18. Essentially, the Applicant is a link in the cyber fraud committed, whereby the Complainant has been cheated of Rs.2,62,39,965.16/-. As per the Prosecution, the Applicant was one of the link in the entire fraud as it was his account and his WhatsApp which was being operated to cheat the Complainant. Admittedly, Rs.20,00,000/- had been brought into his Account, which were further transferred to other Accounts.



19. The investigations are complete and the Chargesheet has already been filed. He is no longer required for any custodial interrogation. The Accused is in Judicial Custody since 10.03.2025. Also, the co-accused Mandeep has already been granted Bail.

20. Considering the totality of circumstances, the accused is granted Regular Bail, on the following terms and conditions:

- a) The petitioner/accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The petitioner/accused shall provide his mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the petitioner/accused changes their residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.

21. The copy of this Order be communicated to the concerned Jail Superintendent as well as to the learned Trial Court.

22. The above Bail Application is accordingly disposed of.

(NEENA BANSAL KRISHNA)

2025:DHC:10889



JUDGE

DECEMBER 03, 2025

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