

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13615-2025
Reserved on: 03.04.2025
Pronounced on: 22.04.2025

Sharik Hussain ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kshitiz Goel, Advocate
for the petitioner.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
57	21.05.2021	Alewa, District Jind	420 IPC (Section 406 IPC and 66D of IT Act added later on)

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 20 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:

"2. That the brief facts of the case are that a case FIR No. 57 dated 21.05.2021 u/s 420 IPC was registered at Police Station Alewa, District Jind on the complaint of Monu Sharma inter-alia on the allegations that the complainant has bank account in Axis Bank bearing No. 915010017246756. On 20.05.2021, at about 10:00 am, he received a call from mobile number 919582300849 on his mobile number 86070-xxxxx regarding delivery of one parcel containing two watches, one laptop, one phone, two gold chains and \$ 50,000 and asked him to deposit Rs. 1,10,000/- in bank account bearing No. 920010073609461 of Axis Bank, IFSC code UTIB0003557 and PAN card No. EQYPS4390K, new branch Delhi in the name of Atul Singh, pursuant to which he paid Rs. 25,000/ online and remaining Rs. 85,000/- through his bank account in the said account of Atul Singh. Again at about 03.00 pm he received a call for transferring Rs. 50,000/- as tax after which he would receive

the said parcel, however, he said that he would confirm the same from Delhi Airport and then he would transfer the said tax amount. On 20.05.2021 went to bank and inquired about the bank account of Atul where he got the information that fraud had been committed against him. Prayer was made for taking legal action against the accused.

3. That investigation of this case was conducted by ASI Suresh Kumar No. 395/Jind of Police Station Alewa. During the course of investigation of the case, on 31.05.2021, Mr. Amit Kumar, Branch Manager, Axis Bank, Khanda was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. A total of three pages of bank account No. 9150100740756 of Monu Sharma-complainant dated 20.05.2021 produced by him were taken into police possession through separate recovery memo.

4. That thereafter investigation of this case was transferred to Incharge, Cyber Cell, Jind which was further conducted by HC Sandeep No.19/Jind. On 27.06.2021, the complainant was joined into the investigation of the case and his supplementary statement u/s 161 Cr.P.C. was recorded. A pen drive having call recording and screen shots of messages received on his mobile phone and other concerned photocopy of a total 19 pages produced by him were taken in police possession through separate recovery memo. A copy of screen shots is being annexed as Annexure R-1 (Colly.)

5. That on 04.08.2021, Komal Sharma, Branch Manager, Axis Bank, HUDA Ground, Jind was joined in the investigation of the case and his statement u/s 161 Cr.P.C. was recorded. documents relating KYC detail to bank account The No. 920010073609461 along the necessary certificate u/s 65(B) of Indian Evidence Act produced by him were taken in police possession through separate recovery memo. The perusal of KYC details transpire that name of the account holder was mentioned as Atul, resident of A-107, Ambedkar Basti, R.K.Puram near Basant Vihar South East Delhi. A copy of the account statement of bank account of accused Atul is being annexed as Annexure R-2.

6. That on 07.08.2021, search of aforementioned Atul was Conducted and found that Atul son of Shri Janardhan Partap Singh, resident of Raipur Tiyai, Police Station Lalganj Ajhara, District Partapgarh now tenant of House No. A-107, Ambedkar Basti, R.K.Puram near Basant Vihar, South East, Delhi. Further on the same day i.e. 07.08.2021, on the basis of sufficient incriminatory evidence section 406 IPC and 66-D of Information and Technology Act was invoked in this case.

7. That further investigation of the case was conducted by Inspr. Sombir, Incharge, Cyber Crime Branch, Jind. On 09.08.2021, the accused namely Atul son of Shri Janardhan Partap Singh, resident of Raipur Tiyai, Police Station Lalganj Ajhara, District Partapgarh now tenant of House No. A-107, Ambedkar Basti, R.K.Puram near Basant Vihar South East Delhi, was joined into the investigation of the case and enquiry was made from him. On the basis of sufficient incriminatory evidence, he was arrested in this case. During the course of investigation of the case, he suffered disclosure statement confessing his guilt in entirety and also disclosed that during the lock-down he was unemployed and in emergent need of money. He sold whole kit of passbook and ATM Card of his bank account No.920010073609461 to Sharik and Anwar son of Faiz Mohammad, resident of Majnupur, Police Station Bhamora,

Tehsil Anwla, District Bareilly (UP) in a sum of Rs.5,000/-. Out of which he had spent Rs.3000/-and remaining Rs. 2,000/- were got recovered from shop No.17 Palika Bhawan Auto Market, R.K. Puram, Delhi which were taken in police possession through separate recovery memo. A copy of the disclosure statement dated 09.08.2021 of the accused Atul is being annexed as Annexure R-3."

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

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portion of the reply which reads as follows:

"15. That regarding role /complicity of the petitioner is concerned, it is submitted that the allegations against the petitioner-accused are serious in nature. The petitioner is not by named accused in this case and his name has been appeared from the disclosure statement of co-accused Atul. The allegations levelled against the petitioner-accused are that the petitioner-accused alongwith co-accused cheated the complainant by inducing him to transfer Rs.1,10,000/-in the Bank account of Atul on the pretext of delivery of a parcel. Custodial interrogation of petitioner-accused is necessary to unearth the true facts in the present matter as well as to effect the recovery of alleged cash amount, pass book, ATM card and information about co-accused and other cases in which they are involved. Therefore, considering the role played by the petitioner-accused and the nature and gravity of offences allegedly committed by the petitioner-accused, he is not entitled for grant of anticipatory bail. Without custodial interrogation of the petitioner-accused, the investigation cannot be conducted effectively."

REASONING:

7. Counsel for the petitioner submits that petitioner's name has not been mentioned. It is highly improbable for somebody to handover their ATM for Rs.5000/-. Petitioner has been made accused later on concocted story based on disclosure statement of co-accused which is inadmissible in evidence. Petitioner is ready to join investigation and has clean antecedents.

8. State counsel refers to reply and submits that they need custodial interrogation to recover the ATM card and to know about the other offences which the petitioner might have committed.

9. An analysis of the arguments would lead to the following outcome. The evidence against the petitioner is of disclosure statement of Atul Singh. It is surprising that despite the police officials including supervisory officer coming to know that Atul Singh was a

money mule and sold his account despite that proper course of investigation would have been to make such kind of people as approvers/king witness and to nab the main accused. Although this Court is not commenting whether that is feasible in given facts and circumstances but the senior police officials must know that cyber crime investigation cannot be done on the lines of traditional investigation. It is for the reason that cyber crime is a faceless and borderless crime and needs highly technical skilled and extremely honest investigator who have timely furnished wealth assets declaration to the department. Since as of date the only investigation against the petitioner is disclosure statement of co-accused and all other attending circumstances indicate and point towards the petitioner but given the nature of investigation conducted so far, this Court does not deem it appropriate to send the petitioner for custodial interrogation simply because the police is not doing the job to the desired level and by not adopting skilled and different approach while conducting investigation. Thus, on this ground alone, the petitioner is entitled to bail.

10. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

11. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

12. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

13. This order is subject to the petitioner's complying with the following terms.

14. The petitioner is directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and

when called by the Investigator. The petitioner shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioner shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

15. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this FIR, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

16. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

17. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

18. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download 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

22.04.2025
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.