IN THE COURT OF M.P. SINGH, SPECIAL JUDGE (PC ACT), CBI-02, ROUSE AVENUE COURT COMPLEX, NEW DELHI

Bail Matter No. 112/2026

CNR No. DLCT11-000466-2026
RC-221/2024/E0010/EO-III/CBI/Delhi
U/s 120B/406/420 of IPC & 66 of IT Act
CBI v. Ayush Varshney

29.07.2026

ORDER

1. This is an application filed by the CBI under section 483(3) of BNSS seeking cancellation of bail granted to Ayush Varshney by the Court of the learned ACJM-02, RACC, New Delhi, vide order dt. 07.04.2026. Arguments on this application were heard on 24.07.2026. Record perused.

2. The present case pertains to large-scale cryptocurrency fraud, popularly known as 'Gain Bitcoin' Ponzi Scheme, floated by Variabletech Pte. Ltd. The accused persons, in furtherance of their criminal conspiracy, are alleged to have dishonestly induced investors to invest Bitcoins in fraudulent 'Gain Bitcoin' scheme by falsely promising high returns of 10% per month for a period of 18 months, payable in Bitcoins. Acting on such false representations, thousands of investors made substantial investments in the scheme. Thereafter, the accused persons allegedly cheated the investors by dishonestly misappropriating the funds so collected instead of honouring the promised returns.

3. Many victims who had been cheated under the 'Gain Bitcoin' Ponzi Scheme lodged multiple First Information Reports (FIRs) across various States and Union Territories of India, including Maharashtra, West Bengal, Delhi, Chandigarh, Punjab, Gujarat, Haryana, Madhya Pradesh, Jammu & Kashmir etc. Consequently, police of the respective States and Union Territories launched investigations and started to arrest the accused persons. Thereafter, the accused persons filed several petitions before the Apex Court for transfer of the FIRs to a Central Agency and for bail. Vide order dt. 13.12.2023, Apex Court directed that all FIRs involving similar allegations be investigated by the CBI and further permitted the CBI to club or consolidate such FIRs during the course of investigation. Apex Court observed:

> "Bearing in mind the magnitude of the controversy and all the relevant facts and circumstances, we are of the considered view that it would be inappropriate to entertain the Writ Petitions under Article 32 of the Constitution for grant of anticipatory bail. However, considering that all the FIRs have similar allegations and were directed against Variabletech Pte Ltd, which had allegedly extended false promises on investment in Bitcoins, we are of the considered opinion that all these FIRs should be directed to be investigated by a common agency. We, therefore, deem it appropriate to direct the Central Bureau of Investigation (CBI) to investigate all these FIRs. During investigation, it shall be open to the CBI to club/consolidate any one or more of the FIRs. It is further clarified that in the event that charge sheets have already been filed by the local Police in connection with any of the FIR, this shall not preclude the CBI from conducting further investigation and thereafter file charge sheets or supplementary charge sheets, as the case may be"

4. Pursuant to the aforesaid directions, CBI classified the FIRs registered across different States and Union Territories into three categories and, accordingly, registered three separate FIRs corresponding to each category. CBI registered FIR of the instant case in October 2024 by consolidating ten (10) FIRs with similar allegations against Variable Tech. Pte. Limited and 'Gain Bitcoin' scheme.

5. Relevant would it be note here that one amongst the ten (10) FIRs that were consolidated in the instant case by the CBI, was FIR no. 35/2018 PS EOW, Delhi under sections 420, 120B and 406 of IPC and section 66 of IT Act, 2000. Ayush Varshney, an accused therein, had been granted anticipatory bail on 06.02.2019 by the Court of learned ASJ/Special Judge (CBI-04), New Delhi.

6. It so happened that, pursuant to consolidation of the FIRs and registration of a fresh case by the CBI in October 2024, the Immigration Authorities detained Ayush Varshney at Mumbai Airport on 09.03.2025 at approximately 10:30 a.m., while he was on his way to Sri Lanka with his family. His detention was effected pursuant to a Look Out Circular (LOC) issued against him by the Pune Police. He was formally arrested in connection with the present case on the following day.

7. Facts, in brief, may now be taken note of.

7.1. In year 2015 one Amit Bhardwaj[1] introduced a cloud

[1] He passed away in 2022.

mining platform known as ‘Gain Bitcoin’ through his company, Variabletech Pte. Limited, which operated the website ‘www.gainbitcoin.com’. Under its scheme, investors were lured by guaranteeing a 10% monthly return on Bitcoin investments for 18 months.

7.2. For the purposes of the scheme, sometime in 2016 the technological infrastructure and mining pool software (GBMiners) were provided by Darwin Labs Pvt. Limited, a company founded by Ayush Varshney[2] together with Sahil Bagla and Nikunj Jain.

7.3. The unsuspecting investors would be lured to part with their bitcoins on false assurances that the same would be invested in crypto currency mining operations and they would receive assured returns of 10% over 18 months. To lend creditability to the representations, promotional materials, including photographs and videos purportedly depicting successful mining operations of GBMiners were circulated.

7.4. However, contrary to representations and promises, the assured bitcoin returns were never delivered and were instead unilaterally substituted, without the knowledge or consent of the investors, with a digital token known as MCAP, which had been devised and created as an ERC-20 standard token on Ethereum public blockchain. The technical design, development and deployment of MCAP token was again undertaken by Darwin Labs Pvt. Limited. Upon deployment of

[2] He was also the Chief Technology Officer of Darwin Labs Pvt. Limited.

MCAP smart contract on Ethereum Mainnet, the entire supply of 100,000,000 (one hundred million) MCAP tokens was generated and credited to wallet addresses controlled by the accused persons, although the said tokens possessed no intrinsic value or asset backing and had been created without any regulatory oversight or independent audit. The MCAP tokens were deliberately misrepresented as constituting part of a diversified cryptocurrency index fund and were falsely portrayed as being likely to appreciate substantially in value within a short period, thereby inducing investors to accept the same in lieu of their legitimate bitcoin returns.

7.5. The prices of MCAP tokens were artificially manipulated on www.gainbitcoin.com (owned by late Amit Bhardwaj) and shown at exorbitant prices ranging between US $ 25-26 per token, and the tokens were listed only on limited platforms, including C-CEX and Bitcoingrowthfund.com, the latter having been developed and managed by Darwin Labs Pvt. Limited, of which Ayush Varshney was a co-founder, thereby enabling him to exercise complete control over pricing and transactions of MCAP tokens. On independent exchanges MACP token was either worthless or had negligible value. Furthermore, when investors attempted to withdraw or convert their MCAP tokens into Bitcoin, such withdrawal requests were deliberately blocked or kept pending, thereby preventing realization of any actual value.

7.6. Thereafter, Darwin Labs Pvt. Limited developed

Coinbank App for ‘Gain Bitcoin’ scheme. The said App was designed to exercise centralised control over the crypto assets and purported returns of investors. Victims were allegedly compelled to use Coinbank App, despite having independent blockchain wallets, on the pretext that returns would be credited exclusively through the said App. Once on board, investors discovered that withdrawals and transfers from said App were restricted and entirely controlled by accused persons, thereby effectively depriving them of access to their own funds.

7.7. It was for a consideration of Rs. 1 crore that Darwin Labs Pvt. Limited had developed mining pool software and given other technological support to Variabletech Pte. Limited. However, CBI’s alleges that Ayush Varshney had, in fact, received approximately 71 bitcoins, over and beyond the agreed amount of Rs. 1 crore, from wallets operated by the co-accused, including late Amit Bhardwaj. As per CBI, these bitcoins represented funds collected from the victims, which had been pooled into a common wallet, and it was from this wallet that Ayush Varshney allegedly received the illicit proceeds amounting to approximately 71 bitcoins. Later, on 21.03.2017, the founders of Darwin Labs Pvt. Limited, namely, Ayush Varshney, Sahil Bagla and Nikunj Jain, entered into a ‘*Harmless and Indemnity Agreement*’ with late Amit Bhardwaj, thereby taking a promise from the latter that they would not be legally liable for any legal proceedings, if any initiated against Amit Bhardwaj in relation to technological infrastructure and software provided by them.

8. Thus, as per the CBI, Darwin Labs Pvt. Limited was involved in: (i) development of Bitcoin mining pool GBMiners design, (ii) development and deployment of crypto token known as MCAP, (iii) Bitcoingrowthfund, a platform where MCAP tokens were sold and purchased, and (iv) creation of Coinbank App. CBI alleges that accused Ayush Varshney had actually conspired with other accused persons, including the promoters of the fraudulent scheme 'Gain Bitcoin', in cheating the innocent investors; that Ayush Varshney was the one who had provided the technological backup that made the unsuspecting investors part with their bitcoins on false assurances. CBI also alleges that Ayush Varshney had complete control over pricing and transactions of worthless MACP tokens that were artificially inflated; that true intent behind the creation and deployment of MCAP tokens was not to provide any legitimate investment avenue, but to substitute Bitcoin liabilities of accused persons under the Gain Bitcoin scheme. It is also CBI's allegation that Ayush Varshney and his associates Nikunj Jain and Sahil Bagla had developed and maintained the Coinbank App to exercise centralised control over crypto assets and purported returns of the investors by compelling them to use the App on the pretext that returns would be credited exclusively through it, failing which no returns would be provided; that once onboard, victims discovered that withdrawals and transfers from the App were restricted and entirely controlled by the accused persons, thereby effectively

depriving them of access to their own funds. As per the CBI, investigation establishes that accused Ayush Varshney, Sahil Bagla and Nikunj Jain acted in concert with accused Amit Bhardwaj and Ajay Bhardwaj and were integral participants in the criminal conspiracy. It is alleged that the founders of Darwin Labs Private Limited, including Ayush Varshney, had received substantial financial gains and a share in the proceeds generated from the Gain Bitcoin scheme, thereby evidencing their active involvement and conscious participation in commission of offence. It bears repetition to state that as per the CBI, Ayush Varshney had received illicit proceeds of about 71 bitcoins from a common wallet into which the bitcoins collected from victims had been pooled into. As per the CBI, during custodial investigation, Pune Police had recovered Bitcoins from the possession of co-accused Sahil Bagla and Nikunj Jain.

9. Arguments of learned Senior PP for CBI are as under:

9.1. The impugned bail order is unsustainable in law, for the material on record was not properly appreciated; that Court failed to consider gravity of the offence, evidence collected during investigation and the specific role attributed to the accused. Impugned order reflects no application of judicial mind and suffers from serious infirmities. Bail can be cancelled *not* only on account of subsequent misconduct of the accused, but also where the order granting bail is perverse, unjustified, or passed in ignorance of material facts.

9.2. Shabeen Ahmad v. State of U.P., (2025) 4 SCC 172, is an authority for the proposition that an unreasoned or perverse bail order is always amenable to interference by a superior Court, particularly where allegations against the accused are grave, the order has been passed by overlooking relevant material on record, or the grant of bail has an adverse impact on society at large. State of Gujarat v. Mohanlal Jitamalji Porwal, (1987) 2 SCC 364 holds that in case the entire community is aggrieved and the economic offenders attempted to ruin economy of the State, bail ought not be granted. In Nimmagadda Prasad v. CBI, (2013) 7 SCC 466 it was held that while granting bail, the Court must look into the nature of evidence, severity of punishment, character of the accused, circumstances peculiar to the accused, reasonable possibility of securing presence of accused, reasonable apprehension of witnesses being influenced and larger interest of the public. CBI v. Ramendu Chattopadhyay, (2020) 14 SCC 396 holds that bail should not be granted in case of economic offences having a deep rooted conspiracy and involving huge loss of investors' money.

9.3. The instant case involves large scale organized economic offence executed through a sophisticated cryptocurrency-based fraudulent scheme involving deep rooted conspiracy and causing wrongful loss to a vast number of investors. Such offences, as in the present case, have far reaching consequences on public confidence and the financial system and are required to be dealt with stricter approach. The gravity and magnitude of offence was not given due weight while granting the bail. In this case, the accused persons had cheated large number of investors on false pretext and the cheated amount is about Rs. 350 crores. The Trial Court fell in error in treating Ayush Varshney as a routine/ peripheral participant, completely ignoring the fact that he was the co-founder and Chief Technology Officer of Darwin Labs Pvt. Ltd.; that he was a principal architect and the technical brain behind the entire fraudulent ecosystem. In the instant case the Court ignored: (i) relevant and incriminating material, (ii) the fact that Ayush Varshney had played central role in commission of the offence(s), and (iii) critical factors such as absconding conduct, non-cooperation during investigation and his technical capacity to tamper with the evidence.

9.4. Ayush Varshney was directly responsible for (i) development of Bitcoin mining pool GBMiners design, (ii) development and deployment of crypto token known as MCAP, (iii) Bitcoingrowthfund, a platform where MCAP tokens were sold and purchased, and (iv) creation of Coinbank App for controlling investors' fund. Therefore, his role was central and indispensable in execution and continuation of the conspiracy. There is substantial and cogent incriminating material, including digital records, blockchain transaction trails and recovery of cryptocurrencies from co-accused Sahil Bagla and Nikunj Jain. Ayush Varshney is a direct beneficiary of proceeds of crime inasmuch as he had received about 70 bitcoins from pool wallets containing bitcoins collected from the victims under false pretext. Ayush Varshney, being a highly skilled technical expert, is in a unique position to alter, delete or manipulate the digital evidence and electronic records. There is a real apprehension that in case Ayush Varshney is allowed to remain on bail, evidence would be tampered with and witnesses would be influenced. The other Directors of Darwin Labs Pvt. Limited, namely, Sahil Bagla and Nikunj Jain, had been arrested on 21.04.2018 by Pune Police and subsequently released on 24.07.2019 and 29.07.2019 respectively and ever since transfer of the matter to CBI, they have absconded. Total volume of gainbitcoins proceeds exceeds 2 lakh bitcoins, out of which a significant portion remain untraced. On the basis of these submissions, he sought cancellation of bail of Ayush Varshney.

10. On the other hand, learned counsels for the accused vehemently opposed the application. Their submissions are as under:

10.1. CBI is seeking cancellation of the bail order without even seeking to set aside the order granting the bail. The prayer for cancellation of bail does not challenge the judicial order which granted the bail.

10.2. An order granting bail can be cancelled on the basis that accused's post-bail conduct is inappropriate or where he is found to violate the bail conditions. In the present case, Ayush Varshney's conduct following the grant of bail has been aboveboard There is no averment that Ayush Varshney, after the bail was involved in any kind of egregious conduct or that he tampered with evidence or influenced any witness or violated any other bail condition. He has no criminal antecedent.

10.3. P v. State of M.P., (2022) 15 SCC 211 is an authority for the proposition that for cancellation of bail, the Court must consider whether supervening circumstances have arisen or whether accused's conduct post-grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom. In Daulat Ram v. State of Haryana, (1995) 1 SCC 349, it was held that very cogent and overwhelming circumstances are necessary for cancellation of bail, and that bail ought not be cancelled in a mechanical manner.

10.4. Bail order dt. 07.04.2026 is well-reasoned and suffers from no patent illegality or perversity. Bail, a discretionary relief, should normally not be interfered with unless grave or patent illegality is shown. Arulvelu v. State, (2009) 10 SCC 206 and Serious Fraud Investigation Office v. Aarti Singhal, 2023 SCC OnLine Del 1956 are authorities for the proposition that under the law the Court should be slow and circumspect in reversing a bail order and should take away the liberty already granted *only* in the wake of grave and supervening circumstances which warrant cancellation of bail.

10.5. CBI has failed to show even a solitary finding of the Trial Court as factually or legally incorrect. Ayush Varshney had merely developed the software as a bonafide third party developer. In fact, Amit Bhardwaj was doing crypto trading and receiving investments from investors through gainbitcoin.com even before 2016 i.e. before development of mining pool software by Darwin Labs Pvt. Limited. It is therefore wrong to paint Ayush Varshney as the central conspirator or the technical brain behind the ponzi scheme. The scheme was fully operational even before Darwin Labs Pvt. Limited came into the picture; investors were already being lured to make investments even before the software had been put in place. Therefore, if the scheme was already operational before Darwin Labs Pvt. Limited came into the picture, Ayush Varshney can at best be a *bonafide* downstream vendor and not architect of the alleged fraud. Darwin Labs Pvt. Limited had received Rs. 1 crore as professional fees for developing the software and which software was handed over to Amit Bhardwaj along with login credentials whereafter the Darwin Labs Pvt. Ltd. had no operational control over the software and its usage.

10.6. Ayush Varshney never purchased any bitcoin from Amit Bhardwaj or from any entity associated with gainbitcoin scheme. He never received a single rupee directly from any investor or victim. At no point of time he was aware of Amit Bhardwaj's purpose and intention. He never interacted with any of the victims. He made no representation to any victim. Not a single number of public has levelled any allegation against Ayush Varshney. The entire public facing operations of the scheme, the promotional campaigns, promise of 10% monthly returns, collection of bitcoins investments from public, dishonest substitution of returns with worthless MCAP tokens, were all undertaken by Amit Bhardwaj. A *bonafide* software developer who creates a software platform and licenses or sells it to an individual for a professional fee does not automatically become a co-conspirator if that individual later misuses the software to commit fraud. This is especially true when no victim has ever lodged any complaint against the developer. '*Harmless and Indemnity Agreement*' dt. 21.03.2017 distances Ayush Varshney from any legal liabilities attached with operation of the platform.

10.7. Ayush Varshney had already been granted anticipatory bail in relation to the very same allegations as in the present case in FIR No. 35/2018, EOW, Mandir Marg, Delhi, and which anticipatory bail order was never challenged in any higher forum. That apart, he was also granted anticipatory bail by Bombay High Court in FIR No. 28/2018, Police Station Dattawadi, Maharashtra in relation to the very same bitcoin matter. And thereafter he had joined the investigation conducted by Pune Police. <u>Radhey Shyam v. State of Haryana & Ors.</u>, 2022 SCC OnLine SC 1935, and <u>Ravinder Singh Sidhu v. The State of Punjab & Ors.</u>, 2025 SCC OnLine SC 1164 hold that when an accused has been granted bail in connection with the principal proceedings, to which other cases have been clubbed, the bail so granted must ensure to accused's favour in the other FIRs clubbed as well. Subsistence of the unchallenged anticipatory bail in FIR No. 35/2018 ought to weigh significantly in favour of Ayush

Varshney.

10.8. The *Grounds of Arrest* in writing were not communicated to Ayush Varshney's father; it was rather sent through WhatsApp message which does not satisfy the legal requirements. In Vihaan Kumar v. State of Haryana, (2025) 5 SCC 799, it was held that *Grounds of Arrest* must be communicated in writing to the arrested person and also to his friends, relative or such other nominated person, failing which the constitutional mandate would be rendered meaningless and the arrest would be illegal. Communication of *Grounds of Arrest* through WhatsApp to Ayush Varshney's father does not satisfy the requirement of '*communication in writing*' as required under section 47 of BNSS and in view of the guidelines laid down in Basheer Thaliyil v. State of Kerala 2026 SCC OnLine Ker 2338.

10.9. CBI had no good reason to arrest Ayush Varshney. He had been regularly appearing before the Enforcement Directorate (ED). IO of this case never made any attempt to call him to join the investigation. The CBI made no genuine efforts through legitimate channels to contact him before arresting him. The fact that he had been regularly appearing before the ED and before the Pune Police amply shows that he is no flight risk or that he has any intentions to evade the legal process.

10.10. Since offences in this case are punishable with imprisonment up to seven (07) years, hence as per *ratio* *decidendi* of Satender Kumar Antil v. CBI, 2026 SCC OnLine SC 162, CBI ought to have served upon him a notice under section 41A of CrPC/section 35 (3) of BNSS. However, no such notice was ever served upon him before his arrest; he was not aware about the proceedings in this FIR of the CBI.

10.11. LOC was opened by Pune Police against Ayush Varhshney in relation to one FIR which is not even part of the instant FIR of the CBI. The LOC against Ayush Varhshney had been opened in violation of guidelines issued in Sumer Singh Salkan v. Asstt. Director, 2010 SCC OnLine Del 2699. There were *no* NBWs (non-bailable warrants) in operation against him so as to enable opening of LOC.

10.12. He never attempted to flee the course of justice. This is established from the fact that he was travelling to Sri Lanka with his family with pre-booked return tickets. That apart, as many as on five (05) previous occasions between 2021 to 2023 he has travelled abroad.

10.13. He was not produced before the Magistrate, Mumbai within 24 hours of his arrest. He had been detained at Mumbai Airport on 09.03.2026 at about 10 a.m. and produced before the Magistrate on 10.03.2026 at 11.50 a.m. In cases of airport detention pursuant to LOC, for the purpose of calculating 24 hours as required under section 58 BNSS (section 57 CrPC) arrest commences from the moment liberty of an accused is curtailed at the airport [Harsh Pal Singh v. State (NCT of Delhi), 2026 SCC OnLine Del 523]. Such detention is in violation of Article 22(2) of Constitution of India and section 58 BNSS (section 57 CrPC). In Directorate of Enforcement v. Subhash Sharma, 2025 SCC OnLine SC 240, it has been held that if Courts find that fundamental rights of an accused under Articles 21 and 22 of the Constitution are violated while arresting him or even post-arrest, the Court dealing with the bail application ought to release him because such arrest is vitiated.

10.14. Development of mining pool software *per se* is no criminal act. Darwin Labs Pvt. Limited was a legitimate vendor. Mining pool is not an investment platform. It is rather a platform where computational resources are pooled to mine cryptocurrency. The investors cannot invest money in a mining pool platform and the login credentials for the GBMiners platform were handed over to accused Amit Bhardwaj immediately upon the software's completion. Dealing cryptocurrency is not an illegal act in India. In fact, the income generated through cryptocurrency trading is taxable in India.

10.15. The instant case is analogous to a buyer-builder case where builder promises flats to the allottees and fails to deliver. In such a situation, the computer team, construction workers, architects and contractors employed by the builder, who did their legitimate professional work and received their fees, cannot be hauled in as co-conspirators in the builder's fraud. Similarly, Darwin Labs Pvt. Limited provided professional software development services for a legitimate monetary consideration. The subsequent misuse of that software by accused Amit Bhardwaj to perpetuate a fraud does not retroactively convert the software developers into conspirators, particularly in the absence of any evidence that Ayush Varshney knew or had reason to know that the software would be misused. Further, the terms of the '*Harmless and Indemnity Agreement*' dt. 21.03.2017 does not make Ayush Varshney liable for proceedings initiated against Amit Bhardwaj in connection with GBMiners Mining Pool App.

10.16. The only financial consideration which Ayush Varshney's company had received in connection with this matter was professional fee of Rs. 1 crore directly into the bank account. The assertion of the CBI that Ayush Varshney had received 70 bitcoins in year 2017 from pool wallets is meritless; this assertion of CBI was duly considered by the Trial Court and rejected.

10.17. Evidence tampering is not a genuine concern in this case. If actually Ayush Varshney was determined to destroy evidence, he could have done so over the course of last nine (09) years. He had several opportunities to do so over the course of several years when multiple FIRs were lodged pan-India. Till date, there is not a single allegation that he resorted to destruction of evidence.

10.18. In <u>Manish Sisodia v. Directorate of Enforcement</u>, 2024 SCC OnLine SC 1920, it has been held that the principle that bail is the rule and jail is the exception applies even to complex economic offences; right to bail is a facet of the right to personal liberty under Article 21 of the Constitution which cannot be lightly curtailed. Narinder Kumar Joshi v. GST Intelligence Directorate, 2025 SCC OnLine P&H 3822, is an authority for the proposition that the principle that bail is a rule applies to grave economic offences as well. For the proposition that bail is a rule and jail is an exception, the judgment of Santosh v. State of Maharashtra, (2017) 9 SCC 714 was relied upon. Further, relying on Sangitaben Shaileshbhai Datanta v. State of Gujarat, (2019) 14 SCC 522, it was urged that each criminal case presents its own peculiar factual matrix and therefore certain grounds peculiar to a particular case may have to be taken into account by the Court. Kailash Kumar v. State of Himachal Pradesh & Anr., 2025 SCC OnLine SC 3035 was cited at Bar to urge that at this stage mini-trial cannot be conducted to determine the guilt of an accused.

11. In the backdrop of the facts and the rival submissions set out hereinabove, this Court proceeds to make an analysis thereof. Court findings are as under.

12. It is to be noted that Ayush Varsheny has already been granted bail by Ld. Trial Court. Therefore, the liberty already granted to him should not be lightly interfered with. Suffice it to note that liberty of an individual being a precious right under the Constitution, this Court would be slow to interfere with the liberty already granted to him.

13. It appears that there is no direct complaint of any cheating, or fraud, or any other offence against Ayush Varshney from any victim in relation to the present case; at least no such complaint was brought to light during the course of arguments at Bar. It is noticeable that Ayush Varshney has been arrayed as an accused on the basis of operation of the offence of *criminal conspiracy* punishable under section 120B of IPC and/or section 66 of IT Act, 2000.

14. It is also noticeable that all the offences invoked in this case are punishable with imprisonment up to seven (07) years.

15. It appears to be not in dispute that Amit Bhardwaj was into crypto trading and had been collecting investments from the public at large even before 2016 i.e. even before Darwin Labs Pvt. Limited had developed the mining pool software. Therefore, the process of alluring/enticing the gullible victim had apparently been afoot even before Ayush Varshney's company came into the picture in year 2016.

16. A very strong circumstance favouring Ayush Varshney is that he had been granted anticipatory bail in relation to the very same offence(s) as in the present FIR of CBI by the Court of learned ASJ/Special Judge (CBI-04), New Delhi on 06.02.2019 in FIR no. 35/2018 PS EOW, Delhi under sections 420, 120B and 406 of IPC and section 66 of IT Act, 2000. Not only this, he was also granted anticipatory bail by Bombay High Court in FIR No. 28/2018, Police Station Dattawadi, Maharashtra in relation to the

very same bitcoin matter. This is certainly not to say that the said anticipatory bail order(s) granted in the FIRs in Delhi and Maharashtra will operate with full force in this FIR of CBI as well. However, the important point is that in relation to the very same offence(s) as in the instant case, two Courts had applied their minds and had granted him anticipatory bail in the relation to the same set of allegations in this FIR of CBI.

17. Given the circumstances on record, I do not think that Ayush Varshney can be said to be '*absconding*' in this matter. In this regard, I would concur with the observations of learned Trial Court. Most likely, Ayush Varshney had no knowledge of the proceedings in the present FIR. It appears from the record that he had joined the investigation being conducted by the ED; that he had also joined investigation of a case before Pune Police (FIR No. 28/2018, Police Station Dattawadi, Maharashtra) in relation to the bitcoin matter. No notice was ever served upon Ayush Varshney in this matter by the CBI to join the investigation. Thus, the record apparently shows that Ayush Varshney was not '*absconding*' in this matter. Most likely, he had no knowledge of the proceedings in this case.

18. The gravity of the offence cannot be the sole determining criteria in adjudication of bail. Trial Court has rightly observed that object of bail is to secure the presence of accused at the time of trial, and that bail is not punitive. In the case at hand, ever since being released on bail, there has been no allegation that Ayush Varshney has tampered with the evidence or influenced

any witness or has violated any of the bail conditions. This conduct is a very crucial factor. Not only this, FIRs started to be registered across India from 2017 onwards in relation to bitcoin matter. There is no averment that during the course of last about 8-9 years Ayush Varshney has tampered with any evidence or has influenced any witness or has even attempted to do so, either directly or indirectly.

19. An accused cannot be kept behind bars in perpetuity on the basis that other co-accused are absconding. It is uncertain as to when, and if at all, the other accused persons would be apprehended in this matter.

20. Continued incarceration of Ayush Varshney in judicial custody will neither aid the investigation nor expedite the trial proceedings.

21. Next I would completely concur with the following observations of Ld. Trial Court, "*The prosecution opposed the bail on the ground that the accused is tech savvy and he can destroy/tamper the evidences. The accused/applicant had several opportunities to destroy/ tamper the evidences many years back when initially the FIRs have been lodged all over India against accused Amit Bhardwaj including the present accused in some FIRs. The accused/applicant was granted anticipatory bail in FIR No. 35/2018, PS EOW, Mandir Marg in the year 2019 and thereafter also accused had sufficient and ample opportunities to destroy and tamper the evidences. Therefore, the argument of*

prosecution cannot be a ground to reject the bail of the accused at this stage."

22. Given the circumstances on record, I do not think that Ayush Varshney is a flight risk. That apart, it does not appear that he would tamper with the evidence or influence any witness.

23. Considerable arguments were advanced at Bar over the issue whether Ayush Varshney had received about 70 bitcoins from pool wallets containing bitcoins collected from the victims under false pretext and he was thus a direct beneficiary of proceeds of crime. The IO had showed to this Court his case diary (section 172 of CrPC/section 192 of BNSS) and it was his forceful submission that Ayush Varshney had received about 70 bitcoins from pool wallets containing bitcoins collected from the victims. That apart, on 24.07.2017 he had given a demonstration on laptop to show that Ayush Varshney had received 70 bitcoins from pool wallets containing bitcoins collected from the victims. It is a different matter that Ayush Varshney and his counsels were not remotely convinced with such demonstration on the laptop. They stood their ground that Ayush Varshney had received *no* such bitcoins from pool wallets containing bitcoins collected from the victims, and in any event he cannot be attributed with the *knowledge* that he had received such bitcoins knowing fully well that they were of the victims. It was their stand in defence that given the very nature of bitcoin as a property, it is not possible to trace them back and to conclusively say that the same had actually belonged sometime in the past to a particular person.

Their stand was that practical tracing of specific bitcoin to identifiable current holders is impossible. This Court is of the view that, even assuming the prosecution's case at its highest, that Ayush Varshney received 70 bitcoins allegedly traceable to the victims, such a circumstance, *ipso facto*, does not furnish a sufficient basis for the CBI to seek cancellation of bail. It is to be noted that in this case, total volume of gainbitcoins proceeds exceeds 2 lakh bitcoins; and out of which Ayush Varsney had allegedly received 70 bitcoins that are stated to be traceable to the victims. Further, even assuming, for the sake of argument, that he had indeed received the said 70 bitcoins, such a circumstance cannot, by itself, be regarded as determinative of the issue. The material placed on record, when considered in its entirety, reveals that the circumstances favouring the grant and continuance of bail overwhelmingly outweigh those militating against it. The Court has to assess totality of the circumstances, and upon such assessment, it is evident that the considerations supporting the grant of bail are far more compelling than those relied upon by the prosecution in seeking its cancellation.

24. Lastly, it may be noted that the present is not a Revision Petition challenging the propriety or legality of the order granting bail to Ayush Varshney. Rather, the present is an application for *cancellation of bail* on the anvil of section 483 (3) of BNSS. The considerations that govern *cancellation of bail* are materially different than those that govern a Revision Petition.

25. I find no merit in this application of CBI under section

483 (3) of BNSS for cancellation of bail of Ayush Varshney. This Court is of the view that Ayush Varshney was rightly granted bail by learned Trial Court.

26. This application of CBI under section 483 (3) of BNSS stands dismissed. File be consigned to record room.

MURARI PRASAD SINGH

Digitally signed by MURARI PRASAD SINGH
Date: 2026.07.29 16:48:55 +0200

Announced in the open Court
today i.e. 29.07.2026

M. P. Singh
Special Judge (PC Act) CBI-02
RACC/New Delhi/29.07.2026