

Bail Matters 173/2026
The State Vs. Subham Sharma
FIR No. 17/2025
PS: Cyber Cell
U/s. 308, 318(4), 319, 340 & 112(2) BNS
Sec. 9(3) Online Gambling Act

14.03.2026

**ORDER ON APPLICATION FOR GRANT OF REGULAR
BAIL FILED ON BEHALF OF THE APPLICANT/ACCUSED
SUBHAM SHARMA**

1. This order of mine shall dispose of an application for regular bail filed on behalf of the applicant/accused Subham Sharma.
2. I have already heard the counsel for the applicant /accused, complainant in person and the Ld. Addl. Public Prosecutor for State.
3. Ld. Counsel for the applicant/accused Subham Sharma has submitted that the applicant/accused is innocent and has been falsely implicated in the present case, as neither any alleged cheated amount has ever been credited in his bank account, nor he has derived a single rupee of wrongful gain from the alleged transaction. Ld. Counsel has also submitted that the applicant/accused has no nexus, link, association or conspiracy with any of the alleged co-accused persons and his name has been dragged into the present case merely on assumptions and conjectures.

4. Ld. Counsel for the applicant/accused has further submitted that the applicant/accused was arrested in the present case on 07.01.2025 and since then, he is in judicial custody in the present case. In the present case, investigation, qua the present accused is complete and chargesheet has already been filed and the applicant/accused is no more required for the purpose of any investigation. As per the chargesheet, the prosecution has alleged recovery of 25 mobile phones and certain APK files from the possession of the applicant/accused, however, there is no documentary proof to substantiate the said allegation. Ld. Counsel has also submitted that the entire case of the prosecution is based on the documentary evidence and continued detention of the applicant/accused is neither mandatory, nor warranted in the present case.

5. Ld. Counsel for the applicant/accused has further submitted that the applicant/accused was merely an employee, on a fixed monthly salary, working under the direct supervision and instructions of Ashish Agarwal and Rajibbh Saha @ Sonu and he has no independent authority, control or financial stake in the alleged activities. The applicant/accused is sole bread earner of his family having liabilities of his old aged parents and wife. Ld. Counsel has also submitted that since, in the present case, the chargesheet has already been filed and no purpose would be served by keeping the applicant/accused behind the bars any longer and prayed for grant of bail, as, the applicant/accused is ready to abide by all the terms and conditions, as imposed upon

the present applicant /accused.

6. On the other hand, Ld. Additional Public Prosecutor for the State has vehemently opposed the present application for bail and submitted that in the case in hand, the present applicant/accused committed the offence of cheating with the complainant to the tune of Rs.31,45,000/-, which was siphoned off from the bank account of the complainant through layered bank transactions. He had also submitted that the present applicant /accused has committed the offences U/s.308, 318(4), 319, 340 & 112(2) BNS and Sec. 9(3) Online Gambling Act alongwith the co-accused persons. The offence committed by the applicant /accused is serious in nature and there is possibility of hampering with the witnesses and tampering with the evidence, if the applicant/accused is released on bail at this stage, so, this applicant/accused does not deserve the concession of bail and prayed for dismissal of this application for grant of bail.

7. In his reply, the IO has submitted that at the time of arrest of the applicant/accused, 26 mobile phones having SIM cards registered with different bank accounts and more than 162 SIM Cards being used in Cyber fraud were recovered. During investigation, the applicant/accused was found to be an active member of an organized Cyber fraud syndicate. The role of the present applicant/accused is not peripheral but central to the technological execution of fraud.

8. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld.

Additional Public Prosecutor for State and perused the record.

9. Perusal of the record reveals that in the case in hand, complainant was cheated with huge amount of Rs.31,45,000/- on the pretext of providing massive returns on online investment through mobile application.

10. In the present case, investigation qua the present applicant/accused is complete and chargesheet has already been filed. As per the chargesheet, the present applicant/accused is alleged to have committed the offence punishable u/s. 308, 318(4), 319, 340 & 112(2) BNS and Sec. 9(3) Online Gambling Act.

11. It is now well settled that the question whether to grant bail or not depends for its answer upon a variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity or as necessarily justifying the grant or refusal of bail. In **Siddharam Satlingappa Mhetre v. State of Maharashtra, Criminal Appeal No.2271 of 2010**, the Hon'ble Supreme Court has insisted upon striking a perfect balance of sanctity of an individual's liberty as well as the interest of the society, in grant or refusing bail. The relevant extract of the judgment (supra) is reproduced hereinafter:-

“3. The society has a vital interest in grant or refusal of bail because every/criminal offence is the offence against the State. The order granting or refusing bail must reflect perfect balance between the conflicting interests, namely sanctity of individual liberty and the interest of the society. The law of bails dovetails two

conflicting interests namely, on the one hand, the requirements of shielding the society from the hazards of those committing crimes and potentiality of repeating the same crime while on bail and on the other hand absolute adherence of the fundamental principle of criminal jurisprudence regarding presumption of innocence of an accused until he is found guilty and the sanctity of individual liberty.”

12. In **Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528**, wherein, the Hon’ble Supreme Court held that:

"11. The law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the Court granting bail to consider among other circumstances, the following factors also before granting bail; they are: (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence. (b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant. (c) Prima facie satisfaction of the Court in support of the charge. (See *Ram Govind Upadhyay v. Sudarshan Singh...*)"

(Emphasis supplied)

13. In the considered opinion of this court, there is enough material on record to prima facie show involvement of the present applicant/accused in the commission of alleged offence. Bare perusal of the chargesheet shows that 26 mobile phones having SIM cards registered with different bank accounts and more than 162 SIM Cards being used in Cyber fraud were recovered from the possession of the applicant/accused, which not only shows the direct & active involvement of the present applicant/accused, but also shows that the offence was being done at such a large scale.

14. Present is the case of Cyber offence, where complainant was cheated with huge amount of Rs.31,45,000/- on the pretext of providing massive returns on online investment through mobile application by the present applicant/accused and other co-accused persons. Admittedly, cases of Cyber crimes are on the rise, where innocent victims are cheated of their hard earned money by employing various means. The other associates of the alleged offence are still on the run and investigation qua them is still undergoing. Moreover, the alleged cheated amount has not yet been recovered. Merely filing of the chargesheet is not a ground for releasing the present applicant/accused on bail.

15. So, taking into consideration the nature of accusation, gravity of offence alleged to have been committed by this applicant/accused, likelihood of tempering with the evidence of the prosecution and the fact that the investigation qua the other associates of the present case is still going on, as recovery of the

cheated amount has not yet been made, therefore, the applicant /accused does not deserve the concession of bail.

16. Accordingly, the application for grant of bail filed on behalf of the applicant/accused Subham Sharma stands **dismissed**.

17. Dasti copy of order be provided to the parties.

18. Attested copy of this order be also sent to the Superintendent of Central Jail concerned for supplying the same to this applicant/accused.

(PUNEET PAHWA)
**Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/14.03.2026**