

Bail Application No. 210/2026
STATE Vs. SAGAR @ SAGAR NAYAK
FIR No. 31/2025
PS : Crime Branch-West
U/s. 318 (4) BNS

03.02.2026

Present: Sh. Devanand Prasad, Ld. counsel for applicant (through VC).
Sh. Kamal Akhter, Ld. Addl. PP for State.
IO/HC Rakesh in person.

1. This is an application u/s. 438 Cr.P.C. filed for grant of anticipatory bail to the applicant/accused **Sagar @ Sagar Nayak S/o. Pompal Singh.**

2. Reply to the bail application filed.

3. Arguments heard.

4. It is argued by Ld. counsel for the applicant/accused that the applicant/accused could not attend the investigation of present case as he is also attending investigation proceedings in Jamtara, Jharkhand. The Investigating Officer of the case registered at Jamtara has also informed the Delhi Police about the seizure of mobile phone used in the commission of present offence. Applicant/accused is ready to join the investigation as and when directed by this Court or the IO. Moreover, the offence is compoundable and the applicant is ready to

compensate the complainant with an amount of Rs.1,48,500/-. Applicant/accused has clean past antecedents. The incriminating evidence i.e. mobile phone of the applicant has already been seized by the police of Jamtara, Jharkhand. Therefore, no custodial interrogation of the applicant is required. Applicant/accused is ready to abide by all the terms and conditions which this Court may deem fit to impose while granting anticipatory bail to the applicant.

5. On the other hand, Ld. Addl. PP has opposed the anticipatory bail application and submits that the applicant/accused is involved in the fraud where three fraudulent debit transactions of Rs.49,500/- each were made from bank account of the Complainant on the pretext of downloading a fake BSES App for updating and generating the electricity bill. The mobile phone of the applicant was used for contacting the the complainant of present case. Applicant/accused has failed to join the investigation despite issuance of number of Notices u/s. 35 (3) BNSS. The NBWs issued against the applicant remained unserved and Proceedings u/s. 84 BNSS have already been initiated against the applicant by concerned JMFC for 03.03.2026. The applicant was also found absconded from his native village. Custodial interrogation of the applicant is essential for recovery of cheated amount and unearthing the larger cyber fraud network as well as identification of the co-accused.

6. I have considered the rival submissions and gone through the record.

7. It is also settled law that anticipatory bail cannot be sought as a matter of right and it is a discretionary remedy. This extraordinary power is to be exercised with circumspection in appropriate cases. The Constitution Bench of Hon'ble Supreme Court has crystallized the law on anticipatory bail in **Gurbaksh Singh Sibbia** and in para no. 31 held as under :-

"31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the Court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed

charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the State" are some of the considerations which the Court has to keep in mind while deciding an application for anticipatory bail."

8. The cyber crimes are new genre of crimes and more and more innocent people are losing their hard money on account of these rising crimes. These organized crimes are quite sophisticated and by very nature, require extensive investigation. The mastermind of such crimes operates from offshore through their agents in India. The youngsters having no criminal antecedents are involved in these Cyber crimes to avoid detection.

9. The present case was registered on the complaint of Dr. Shashi Kumar Khurana S/o. Late Sh. PL. Khurana. He stated that an unknown person impersonating himself as Mukesh Sharma from BSES contacted him via WhatsApp on the pretext of updating his electricity bill and generation of the January 2025 bill. The complainant was induced to download a fake BSES APK application, resulting in hacking of his mobile phone and unauthorized activation of call forwarding. Thereafter, the complainant noticed three fraudulent debit transactions of 49,500/- each from his bank account in quick succession. The mobile phone of the applicant/accused has been used in the commission of aforesaid cyber

fraud. The applicant/accused has intentionally failed to join the investigation despite service of notices u/s. 35 (3) BNSS on 15.07.2025, 24.07.2025, 31.07.2025 and 27.09.2025. The applicant/accused was also found absconded from his native village. Proceedings u/s. 84 BNSS have already been initiated against the applicant/accused. Custodial interrogation of the applicant/accused is also required in order to unearth the larger cyber fraud network involved in the present case and identify other co-accused. The money trail is also to be discovered and cheated amount is yet to be recovered. The applicant is also involved in case FIR No. 26/2025, PS Jamtara u/s. 111 (2)/317(2)/318(4)/319(4)/336(3)/338/340(2)/3(5) BNS and Section 66-B/66-C/66D I.T. Act.

Keeping in view the entire facts and circumstances as well as the conduct of the applicant for not joining the investigation, I do not find any ground to allow present anticipatory bail application. **Accordingly, anticipatory bail application stands dismissed.**

Copy of order be given dasti as prayed.

(Priya Mahendra)
Additional Sessions Judge-09,
West : Tis Hazari Courts : Delhi
03.02.2026