

Bail Matters 19/2025
STATE Vs. KAUSHIK RAJ ALIAS ANKIT SINGH
FIR No. 99/2024
PS Cyber Police Station
U/s 318(4)/319(2)/336(3)/338/341 (2) BNS

15.01.2025

Vide office order no. Judl.II/F.102/South/Saket/2024 /40048-0069 dated 30.11.2024 of Ld. Principal District and Sessions Judge, South District, Saket Courts Complex, New Delhi, bail roster and other urgent applications have been assigned to the undersigned.

Application U/s 483 of BNSS, 2023 (439 Cr.P.C) for grant of bail on behalf of the applicant.

Present: Sh. A.T. Ansari, Ld. Addl. PP for the State.
Sh. Roshan Kumar Ld. Counsel for the applicant.

Reply to the bail application received.

Arguments heard.

Ld. Counsel for the applicant/ accused submitted that applicant was arrested on 15.10.2024 and since then he is in JC. It has also been submitted that the allegations made against the applicant are false, frivolous, baseless and the applicant is not involved in any manner in the commission of alleged offence. It is stated that the charge-sheet has already been filed. It is further submitted that nothing incriminating has been recovered from his possession, investigation is complete and that the applicant/accused is no more required for custodial interrogation. Further more, it is stated that the applicant is a 24 year young boy and if he remain in the custody for longer period, it will effect his present and future, therefore, he may be released on bail.

Ld. Counsel for the applicant has relied upon the judgment passed by Hon'ble Supreme Court of India in case

Sanjay Chandra vs Central Bureau of Investigation AIR 2012 SCC 49, Arnesh Kumar Vs. State of Bihar” (2014) 8 SCC 273, P. Chidambaram vs Directorate of Enforcement (2019) and State of Rajasthan vs Balchand (1977).

Ld. Addl. PP for State has opposed the bail application stating that allegations are specific and serious in nature. He further submitted that applicant has moved the second bail application without any change of circumstances. Hence, it is prayed that bail application may be dismissed.

I have considered the submission of Ld. Counsel as well as Ld. Addl. PP and have gone through the record.

Present case was registered on the basis of complaint given by complainant Mr. Vindhaya Mohan Aggarwal who stated that he had been defrauded for an amount of Rs 4,76,870/- from 06/09/2024 to 11/09/2024 in lieu of tickets of ‘Dil-Luminati’ event of Diljit Dosanjh's live concert in JLN stadium, New Delhi. The modus operandi of the applicant was that he had created a fake platform of Dil- Lumanti event (event of Punjabi Singer - Diljit Dosanjh) and registering himself on Paytm Insider as organizer of the event and sold fake event tickets to the complainant. After some time, he had cancelled the event tickets and cheated the complainant for an amount of Rs 4,76,870/-. Thus, he defrauded complainant on the pretext of selling tickets of the Diljit Dosanjh Concert i.e Dil – Luminati.

During investigation AOF, KYC and Statement of alleged AXIS Bank A/C 924010032016060, in which whole the amount was transferred by the complainant was obtained and it

was found in the name of applicant/accused Kaushik Raj S/o Abhay Kumar Singh R/o C197/5, Jeevan Park, Uttam Nagar near Gurudwara, West Delhi. During analysis of the statement of AXIS Bank, it was found that amount of Rs 4,61,870 in 16 transactions was transferred to AXIS Bank A/C 924010032016060 and utilized by the account holder for self-expenses and most of the cheated amount withdrawn through self cheques. CDR of the bank linked 8920664717 was obtained and it was found in the name applicant/accused Kaushik Raj S/o Abhay Kumar Singh R/o G-298, Beta-2, Surajpur, U.P, after that present case was registered and investigation was taken up.

During investigation with the help of technical surveillance and local intelligence accused Kaushik Raj @ Ankit Singh was apprehended from Hazrat Nizamuddin railway station. Notice u/s 35 (3) BNSS was issued to him, and he joined the investigation in PS Cyber South, Saket New Delhi.

The earlier application of applicant/accused seeking regular bail was dismissed by court vide order dated 16.11.2024 while considering all the contentions which have been raised in present application.

In the case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Another**, (2005) 2 SCC 42, the Hon'ble Supreme Court observed as follows:

"Ordinarily, the issues which had been canvassed earlier would not be permitted to be re-agitated on the same grounds, as the same it would lead to a speculation and uncertainty in the administration of justice and may lead to forum hunting."

In the case of **State of Tamil Nadu vs S.A. Raja Appeal**

(crl.) 1470 of 2005 decided on 26 October, 2005, the Hon'ble Supreme Court held as follows:

“Of course, the principles of res judicata are not applicable to bail applications, but the repeated filing of the bail applications without there being any change of circumstances would lead to bad precedents.”

In the case of **Harish Kathuria & Anr. Vs. State, Bail Application No. 1135/2011, decided on 18.08.2011**, the Hon'ble High Court of Delhi has observed as follows :

“Successive bail applications can be filed as has been held in the catena of judgments but then it has been observed that there must be change in circumstances which warrant fresh consideration of the application. Successive bail applications without there being any change in circumstances is not only to be deprecated but is in effect a gross abuse of the processes of law which must be visited with some amount of sanction by way of cost for wasting the time of the Court. There are cases of persons who are languishing in jail for wanting their appeals to be heard for want of time while as unscrupulous persons like the petitioners, who have embarked on a forum shopping or rather be called a bench hopping, are wasting the time of the Court.”

As there is no change in circumstances since dismissal of previous application, therefore instant application is also to meet the same fate. Defence fails miserably to point out any material change of circumstance since passing of order dated 16.11.2024.

Ld. Counsel for the applicant argued that custody of applicant is no more required as chargesheet has already been filed. Mere filing of chargesheet cannot be termed as any change

of circumstance so as to confer a right on the accused to be released on bail. It would be apposite to refer to the decision of Hon'ble Supreme Court in the case of **Virupakshappa Gouda Vs. State of Karnataka, Criminal Appeal No. 601/2017**, dated 28.03.2017. In that case, taking note of the fact that investigation is no longer pending and after referring to the judgment of Hon'ble Supreme Court in the case of **Sanjay Chandra Vs. Central Bureau of Investigation, 2012 CRI. L.J. 702**, the Trial Court allowed the bail application and released the applicant on bail. The Hon'ble Supreme Court held that bail should not have been granted and the filing of charge-sheet is not a circumstance that tilts the scales in favour of the accused in grant of bail. The Hon'ble Supreme Court also held that its observations in the Sanjay Chandra case (ibid) "cannot be made applicable in each and every case for grant of bail." The following extract of the decision of Hon'ble Supreme Court is relevant:

"Needless to say, filing of the charge-sheet does not in any manner lessen the allegations made by the prosecution. On the contrary, filing of the charge-sheet establishes that after due investigation the investigating agency, having found materials, has placed the charge-sheet for trial of the accused persons."

It is thus concluded that mere filing of charge-sheet is not a circumstance inviting favourable consideration of the application for bail.

The cheated amount has been transferred in the account of applicant. The applicant is involved in serious offence of Cyber Crime. As per IO, Unnati Devara whose Pan Card

accused has used is yet to be traced to verify the involvement of other persons along with accused in commission of alleged offence. There are chances of other victims being cheated by applicant who are to be identified.

Considering all the facts and circumstances of the case, seriousness of offence and stage of trial, I do not find any ground to release the applicant/accused on bail. Accordingly, bail application is dismissed.

Copy of this order be given dasti.

Application stands disposed of accordingly.

(Purshotam Pathak)
ASJ-05(South), Saket Courts, Delhi
15.01.2025