

IN THE COURT OF ADDL. CHIEF JUDICIAL MAGISTRATE,
37TH COURT, ESPLANADE MUMBAI
BAIL APPLICATION NO. 230 OF 2026
C.R. NO. 50/2025 NODAL CYBER POLICE STATION

ORDER

Accused Nitesh Omprakash Gupta has moved application for bail.

2. It is the contention of the applicant/accused that he is innocent. He has been falsely implicated in this case. The allegations made against him are false, baseless and unsupported by any cogent material. He has not committed any offence as alleged in the FIR. The investigation in his respect has already been completed. The relevant documents are already in possession of the investigating agency, therefore, his custody is not required for further investigation. He is permanent resident of Virar. He is ready to abide by any condition imposed by the court, if released on bail. He prays to allow the application.

3. The learned APP opposed the application on the ground that the charges levelled against the accused are serious. The accused under the pretext of police officer digitally arrested the informant and caused him to suffer financial loss of Rs.96,60,706/-. Out of the said amount, amount of Rs.6,00,000/- was deposited in the account of the present accused and on the same day it was withdrawn by the accused which suggests his involvement in commission of the offence. Prima facie material is available against the accused. If the accused released on bail, the possibility of threatening to the witnesses and tampering of evidence cannot be ruled out. He prays for rejection of the application.

4. Perused the record. The applicant/accused has been arrested for the offence punishable under section 318(4) of the B.N.S. and section 66D of the Information Technology Act.

5. The learned advocate for the accused submitted that alleged offence is having punishment less than seven years. The applicant/accused is 20 years old. He is taking education. He has not committed any offence. Investigation of the crime is completed. He requested to release the accused on bail.

6. Perused the record. It appears that the applicant was introduced to accused Nitesh Gupta by Sarvajeetkumar Jha. On 26.11.2025, an amount of Rs.6 lakh was transferred in the account of the applicant. Out of the said amount Rs.5,95,000/- was withdrawn and given to Sahil Singh. The report submitted by the Investigating Officer itself shows that the applicant was fruit seller. Sarvajeetkumar Jha informed to the applicant/accused that the said amount was transferred for the marriage of sister of Anuj Singh. It shows that the present applicant/accused was totally unknown regarding the act of digital arrest and cheating of the informant.

7. On perusal of the charge-sheet, it also appears that no amount has been credited into the account of the applicant. The alleged offence is punishable up to seven years. Custody of the accused is not required at this juncture. The offence punishable under section 318(4) of the B.N.S. provides punishment for imprisonment up to seven years. Though the offence is relating to cheating of the informant to the tune of Rs.96,60,730.40/- and it is relating to digital arrest of the

informant. However, role played by the applicant/accused is very limited. The report submitted by the Investigation Officer does not show that the applicant/accused was part of the conspiracy.

8. From the charge-sheet, it also reveals that the applicant accused is 23 years old. The charge-sheet does not disclose any criminal antecedent of the accused. All offences are triable by this Court. If the bail application is rejected, it would cause serious prejudice to further career of the applicant. It will also amount to pre-trial conviction. The charge-sheet has been filed. The say of the prosecution does not disclose that the custody of the applicant/accused is required for further investigation. The prosecution has raised some apprehension regarding absconding and tampering the prosecution evidence. For that purpose, the Court may impose some stringent conditions upon him.

9. It is settled principle of law that “Bail is Rule and Jail is an Exception”. Admittedly, the offences relating to digital arrest and cyber fraud are more serious than the robbery and dacoity, however, considering the role played by the applicant/accused in commission of the offence, the amount received by him and age of the applicant, it will not be appropriate to keep him behind the bar. Considering the law laid down by the Hon’ble Supreme Court in the case of **Sanjay Chandra V/s. CBI and Krishna Damani V/s. State of West Bengal**, it will be proper to release the accused on bail by imposing certain conditions.

ORDER

1. The applicant/Accused Nitesh Omprakash Gupta is hereby released on executing personal bond of Rs.1,00,000/- with surety of the like amount.

2. The accused be released on provisional cash security of like amount for four weeks.
3. The accused to surrender his passport before the I.O., if any and shall not leave Mumbai as well as India without prior permission of the Court.
4. The accused shall attend the concerned Unit Office on first and third Tuesday of every month in between 10.00 a.m. to 12.00 a.m. till further order.
5. The accused shall submit the proof of his residence and two recent photographs and also submit mobile numbers and shall intimate change of address and change of mobile, if any, to the concerned court and concerned police station.
6. The accused to furnish identify proof and address proof of his two blood relatives.

Date : 24.02.2026

Addl. Chief Judicial Magistrate,
37th Court, Esplanade, Mumbai