2026:PHHC:044652



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**119 CRM-M-13144-2026**

Dafda Jignesh Jethabhai

....Petitioner

V/s

State of Punjab

....Respondent

**Date of decision: 20.03.2026**

**Date of Uploading : 20.03.2026**

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Akash Mehra, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

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**SUMEET GOEL, J. (Oral)**

1. Present second petition has been filed under Section 483 of the Bharatiya Nagrik Suraksha Sanhita seeking grant of regular bail to the petitioner in case bearing FIR No.04 dated 26.04.2025, registered for the offences punishable under Sections 318(4), 61(2) of the BNS, 2023 and Section 66(D) of the Information Technology Act, 2000 at Police Station Cyber Crime, District Pathankot.

2. The petitioner had earlier applied for grant of regular bail before this Court which was dismissed as withdrawn on 12.02.2026. The relevant part of said order reads as under:-

> *"2. Learned counsel for the petitioner, after arguing for some time, seeks to withdraw the petition in hand at this stage.*
>
> *3. Ordered accordingly."*

3. The prosecution case, as emanating from the record, is that the instant FIR was registered on the basis of a complaint made by one Ramesh

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Bhavri, who alleged that he and his wife were duped of a substantial amount of ₹54,26,665/- by unknown persons through a well-orchestrated cyber fraud. It has been alleged that the wife of the complainant had received a call from a person impersonating himself as 'Vijay Khanna' from the Directorate of Enforcement, Mumbai. As per the complainant, the caller falsely informed them that a bank account had been opened in the name of the complainant in Canara Bank, Mahim Branch, Mumbai for money laundering and an arrest warrant had been issued. Furthermore, the impersonator had sent a forged arrest warrant of the Supreme Court of India on WhatsApp and threatened a "digital arrest" unless funds were transferred for verification. Acting under fear and coercion, the complainant transferred the huge amount of money into the multiple bank accounts provided by the fraudsters. On these set of allegations, the instant FIR was lodged against the unknown person for committing online fraud. During the course of preliminary inquiry and subsequent investigation, it had revealed that the fraud had been executed through telephonic and digital means involving multiple bank accounts. During the course of further investigation, the name of the present petitioner had surfaced on the basis of the banking trail which indicated that a substantial portion of the defrauded amount had been credited into the bank account maintained in the name of M/s Bharat Electronics and Enterprises allegedly jointly operated by the petitioner. The petitioner is stated to be in custody since 24.06.2025.

4. Learned counsel for the petitioner has iterated that the petitioner has been falsely implicated into the FIR in question as his name does not figure in the same. Learned counsel has further iterated that the

entire case against the petitioner is based upon disclosure statements of co-accused persons, which are inadmissible in evidence. It has been further argued that neither any recovery has been effected from the petitioner nor there is any electronic or digital evidence connecting him with the alleged offence. Furthermore, the petitioner has neither made any call to the complainant nor participated in the alleged fraudulent transactions. According to learned counsel, the implication of the petitioner is solely based on account of the alleged misuse of his identity documents by the co-accused. It has been further contended that the investigation stands completed; challan has been presented and 02 material witnesses i.e. the complainant and his wife, have already been examined before the Court below who have not attributed any role to the petitioner. According to learned counsel, the petitioner is stated to be in custody since 24.06.2025 and has undergone incarceration for a substantial period of time. Out of the 12 prosecution witnesses cited by the prosecution, only 02 witnesses have been examined till date which reflects that the trial is progressing at a snail's pace. Furthermore, in view of the large number of remaining witnesses, the conclusion of trial is likely to take a considerable amount of time and, therefore, no useful purpose would be served for continued incarceration of the petitioner. Learned counsel has emphasized that the petitioner has clean antecedents and there is no likelihood of his absconding or tampering with the prosecution evidence. Learned counsel has further submitted that the earlier bail petition was dismissed as withdrawn with no adjudication on merits thereof and there has been a material change in circumstances on account of prolonged custody and delay in the trial. On the strength of aforesaid submissions, the grant of petition in hand is entreated for.

5. *Per contra,* learned State counsel has vehemently opposed the grant of bail to the petitioner by arguing that the present case involves a serious and organized cyber economic offence involving huge public money. Learned State counsel has iterated that the petitioner has played an active role in the conspiracy as the bank account linked to him has been used for routing the cheated amount. It has been further argued that the role of the petitioner cannot be brushed aside at this stage merely because he was named in the FIR and his involvement has surfaced during investigation through the financial trail. Learned State counsel has urged that the gravity of the offence, coupled with its growing menace in the Society requires a strict approach by the Court. Grant of bail at this stage would not be in the interest of justice especially considering the fact that the economic offences, particularly those involving cyber fraud and cheating are to be treated strictly since they erode public trust and cause widespread harm to innocent citizens. On the basis of these submissions, the dismissal of the petition in hand is prayed for.

6. I have heard learned counsel for the rival parties and have perused the available record.

7. It would be apposite to refer herein to a judgment passed by this Court in ***Rafiq Khan vs. State of Haryana and another: 2024: PHHC:054064***; relevant whereof reads as under:-

> *9. The paramount issue, in any plea for grant of regular bail, is the liberty of an individual. Indubitably, within our society and jurisprudence, liberty is a cherished foundational principle and has*

*fundamental ascendency over all other attributes of social order. Even within the framework of Constitution, this principle is made conspicuous, inter alia, in Article 21 of our Constitution that no person shall be deprived of his personal liberty except according to procedure established by law. The Cr.P.C., 1973 is one such procedural law which permits curtailment of liberty of anti-social and anti-national elements. Yet, liberty of an individual, the accused, must not transgress the rights of another individual, the victim, in terms of right to dignified everyday life without any imminent fear or threat. Additionally, the rights of the collective of individuals viz. the State/Society at large, also cannot be neglected. Therefore, while countenancing the facts for considering the bail, the rights of the triad of accused, victim and the State (Society at large) ought to be entailed. Ergo, while considering a bail plea, the Court ought to take into account this core concept(s).*

*9.1 An analytical perusal of Cr.P.C. explicates that this statute does not contain any provision relatable to maintainability or otherwise of second/successive bail petitions, including one(s) seeking regular bail. Once there is no statutory prohibition provided for in law, a Court is not logically empowered to import into it such prohibitions, especially in case of codified and legislated law. It is trite law that Courts ought not to read a provision in codified law which has not been specifically provided for by the legislature especially when such reading results into deprivation of rights. The bar contained in Section 362 of Cr.P.C. can, by no stretch of legal imagination, be said to be barring the filing of second/successive regular bail petition.*

*9.2 The Hon'ble Supreme Court in case of **Babu Singh** case (supra) has held that rejection of a bail petition does not, by itself, forbid a Court from considering another one, later in point of time. Similar is the ratio decidendi of the judgment of Hon'ble Supreme Court in **Kalyan Chandra Sarkar** (supra). Ergo, it can be safely inferred that the decision of a Court qua regular bail petition is essentially an interlocutory order and hence the postulation of res judicata does not apply to its realm.*

*9.3 The issue that next craves attention is as to what are the factors/parameters for consideration of second/successive regular bail petition(s).*

*9.4. The concordant legal position is that the essential pre-requisite for consideration of second/successive regular petition is the material/substantial change in circumstances and factors of alike* *nature. Indubitably, the further period of incarceration suffered by the petitioner-accused after rejection/withdrawal of first/earlier plea for bail, pace of trial, the witnesses turning hostile or not supporting prosecution case and changed medical condition(s) of accused would be pertinent factor(s). It goes without saying that these factors are only illustrative in nature and cannot by any means be said to be exhaustive.*

*9.5 No rigid or universal criterion can possibly be delineated to conclusively govern the exercise of judicial discretion, in determining, as to what would constitute as the above stated substantial change in circumstances. Factual flexibility, one additional or different fact, may cause a sea of difference. There is no gainsaying that each case has its own distinct and unique facts and, hence, exercise of such judicial power is best left to the judicial discretion of a Court, in accordance with the settled norms of our jurisprudence.*

*10. As an epilogue to the above discussion, the following principles emerge:*

*I Second/successive regular bail petition(s) filed is maintainable in law & hence such petition ought not to be rejected solely on the ground of maintainability thereof.*

*II. Such second/successive regular bail petition(s) is maintainable whether earlier petition was dismissed as withdrawn/dismissed as not pressed/dismissed for non-prosecution or earlier petition was dismissed on merits.*

*III For the second/successive regular bail petition(s) to succeed, the petitioner/applicant shall be essentially/pertinently required to show substantial change in circumstances and showing of a mere superficial or ostensible change would not suffice. The metaphoric expression of seeking second/successive bail plea(s) ought not be abstracted into literal iterations of petition(s) without substantial, effective and consequential change in circumstances.*

*IV No exhaustive guidelines can possibly be laid down as to what would constitute substantial change in circumstances as every case has its own unique facts/circumstance. Making such an attempt is nothing but an utopian endeavour. Ergo, this issue is best left to the judicial wisdom and discretion of the Court dealing with such second/successive regular bail petition(s).*

*V In case a Court chooses to grant second/successive regular bail petition(s), cogent and lucid reasons are pertinently required to be recorded for granting such plea despite such a plea being*

> *second/successive petition(s). In other words, the cause for a Court having successfully countenanced/entertained such second/successive petition(s) ought to be readily and clearly decipherable from the said order passed."*

8. The contentions raised by learned counsel for the petitioner were available to the petitioner at the time when the first petition for grant of regular bail was dismissed. Thus, as such no fresh substantial change in the circumstances has been brought forward which would indicate that the petitioner is entitled to maintain his second petition for grant of regular bail. For maintaining a second petition for bail, it is *sine-qua-non* to bring forth change in circumstances. However, since the first regular bail petition was dismissed as withdrawn and there was no adjudication on merits thereof, this Court deems it appropriate to decide the instant one on merits thereof as well.

9. The grant of bail falls within the discretionary domain of the Court; however, such discretion must be exercised in a judicious and principled manner, ensuring it aligns with established legal precedents and the interests of justice. While considering a bail application, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused, the nature and gravity of the alleged offence and the severity of the likely sentence upon conviction. The Court must also assess the likelihood of the accused absconding or evading the due process of law, the probability of the offence being repeated and any reasonable apprehension of the accused tampering with evidence or influencing witnesses. Additionally, the character, antecedents, financial means, societal standing and overall conduct of the accused play a crucial role. Furthermore, the

Court must weigh the potential danger of bail undermining the administration of justice or thwarting its due course. A profitable reference in this regard is made to the judgment passed by the Hon'ble Supreme Court titled as ***State through C.B.I. vs. Amaramani Tripathi, 2005 AIR Supreme Court 3490,*** relevant whereof reads as under:

> *14. It is well settled that the matters to be considered in an application for bail are (i)whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused;(vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see* ***Prahlad Singh Bhati v. NCT, Delhi, 2001(2) RCR (Criminal) 377 (SC) :2001(4) SCC 280*** *and* ***Gurcharan Singh v. State (Delhi Administration), AIR 1978 Supreme Court 179****). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in* ***Kalyan Chandra Sarkar v. Rajesh Ranjan, 2004(2) RCR (Criminal) 254 (SC) :2004(7) SCC 528*** *:"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, 2002(2) RCR (Criminal) 250 (SC) : 2002(3) SCC 598 andPuran v. Ram Bilas, 2001(2) RCR (Criminal) 801 (SC) : 2001(6) SCC 338."***
>
> *This Court also in specific terms held that :*
>
> *"the condition laid down under section 437(1)(i) is sine qua non for granting bail even under section 439 of the Code. In the impugned order it is noticed that the High* ***Court*** *has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe and there are allegations of tampering with the witnesses by the accused during the period he was on bail."*

10. Indubitably, the present case pertains to a large-scale cyber fraud involving impersonation of public official(s) and regarding digital arrest by faking the identity of the Directorate of Enforcement, Maharashtra, fake arrest warrants and orders. As per the prosecution case, the complainant and his wife have received calls from a person impersonating himself as an Officer of the Directorate of Enforcement, who threatened them with arrest in a money laundering case and induced them to transfer money for verification purposes. Acting under fear, the complainant has transferred a sum of Rs.54,26,665/- into the different bank accounts provided by the accused. The *modus operandi* reflects a well-planned conspiracy whereby on the pretext of fake digital arrest, the accused have

duped the complainant and his wife for a substantial amount. During the course of investigation, it has been found that the fraud has been carried out in a planned manner using multiple bank accounts and fake identities. The involvement of the present petitioner has surfaced during the course of investigation when a substantial part of the cheated amount has been traced to a bank account linked to him. As per the prosecution, the said account has been allegedly used for receiving and further transferring the defrauded money. The role attributed to the petitioner, though emerging during investigation, cannot be said to be insignificant. At this stage, the argument that the petitioner has no knowledge of such transactions or his identity has been misused, is a matter of trial and cannot be determined at the stage of considering the plea for grant of bail. In the considered opinion of this Court the financial trail, *prima facie*, establishes a nexus between the petitioner and the alleged offence. The magnitude of the fraud and the manner in which the amount has been siphoned off are significant factors which weigh against the grant of bail.

11. The plea of the petitioner that the complainant and his wife have not identified the petitioner during their examination before the Court below does not dilute the significance of the financial trail and other circumstantial evidence collected during the investigation. While considering a bail petition, the Court must evaluate factors such as the existence of *prima facie* evidence implicating the accused and the nature and gravity of the alleged offence. Furthermore, no accentuating circumstances have been made which may *prima facie* constitute a compelling ground for the grant of regular bail to the petitioner, especially

in light of the gravity of the allegations and the evidence placed on record. The Court cannot accept the plea of the petitioner of false implication merely based on assertions without evidence. The petitioner has been in custody since 24.06.2025 but custody, by itself, is not a ground for bail when the allegations are serious. In view of the seriousness of the allegations coupled with the nature of evidence, this Court is of the considered opinion that the petitioner is not entitled to the concession of regular bail.

12. In view of the prevenient ratiocination, it is ordained thus:

(i) The instant petition, being devoid of merit, is hereby dismissed at this stage.

(ii) Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case and the investigating agency as also the trial Court shall proceed further, in accordance with law, without being influenced with this order.

(iii) Pending application(s), if any, shall also stand disposed of.

**(SUMEET GOEL)**
**JUDGE**

March 20, 2026
*Ajay*

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No