



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Criminal Miscellaneous Bail Application No. 7954/2025

Ajeet Kumar Shukla S/o Shri Dinesh Kumar Shukla, R/o Village Kalyanpur, Police Station Hathigaon, Janpad 32, Pratapgarh, Uttar Pradesh, Presetnly Flat No. 5th Floor, Lilek Tower Omax 502-R 1, Police Station Sushant City, Lucknow, Uttar Pradesh. (At Present Confined In Central Jail Jaipur, District Jaipur).

-----Accused-Petitioner/Applicant

Versus

State of Rajasthan through P.P.

-----Non-Petitioner

For Petitioner(s) : Mr. Umesh Kumar Sharma
For Respondent(s) : Mr. Manvendra Singh Shekhawat, PP

HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI

Order

REPORTABLE

1.	Arguments Concluded On:	10/02/2026
2.	Judgment Reserved On:	10/02/2026
3.	Full Judgment/Operative Part Pronounced:	Full Judgment
4.	Pronounced On:	27/02/2026

1. This regular bail application has been filed on behalf of the accused in connection with First Information Report (FIR) No. 346/2024 registered at Police Station Shyam Nagar, District Jaipur City (South), under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, for offences under Sections 420, 406, and 120B of the



Indian Penal Code, as well as Sections 66C and 66D of the Information Technology (Amendment) Act, 2008.

2. During the course of arguments, learned counsel for the applicant/accused submitted that the offences alleged against the applicant/accused are triable by the Magistrate's Court, and that he has been in custody since 24.05.2025. On the ground that other criminal cases are registered against the applicant/accused, the learned trial court has denied him to grant the benefit of bail. However, merely on this ground, he cannot be deprived of bail. He has been falsely implicated in this case, and no recovery has been made from him.

3. In the present case, on 18.08.2025, charges under Sections 406, 420, and 120B of the Indian Penal Code and Sections 66C and 66D of the Information Technology Act were framed against the applicant/accused. From the date of framing of charges until today, the statements of witnesses have not yet been recorded.

4. Since the prosecution evidence has not been completed within 60 days from the date of framing of charges, under the provisions contained in Section 480(6) of the BNSS, the applicant/accused is entitled to the benefit of bail. Therefore, the bail application of the applicant/accused be allowed and he be released on bail.

5. In support of his arguments, the learned counsel for the applicant/accused has relied upon the following judgments:

*1. **Ankit Bansal Vs. Union of India:** S.B. Criminal Miscellaneous 3rd Bail Application No.12967/2025; order dated 16.10.2025.*



2. **Banwari Lal Kushwah Vs. State of Rajasthan: S.B.**

Criminal Miscellaneous 2nd Bail Application No.12083/2024; order dated 04.11.2024.

6. During the course of arguments, the learned Public Prosecutor has submitted that the allegation against the applicant/accused is that, by luring the complainant with a "profit trading plan," he got a web application downloaded and, through WhatsApp messages, withdrew money at different times from the complainant's account, thereby causing a total transfer of Rs.82 lakhs. It is further alleged that approximately Rs.65 to Rs.70 lakhs of the online fraud amount was deposited in the account of the applicant/accused.

7. There are four other criminal cases of a similar nature pending against the applicant/accused at different police stations. The details of the same are as follows:-

क्र.सं.	प्र.सू.रि.सं	धारा	पुलिस थाना
1	429 / 2024	498ए, 504, 506, 307, 120बी, 467, 468, 471, 419, 420 भा.दं.सं. एवं 3/4 डी.पी. एक्ट	चिनहट लखनउ, उत्तर प्रदेश
2	4484 / 2024	318(4) बीएनएस, 66 डी आई.टी. एक्ट	साईबराबाद, तेलंगाना
3	149 / 2018	406, 420 भा.दं.सं	कोतवाली गया, बिहार
4	296 / 2018	420, 406 भा.दं.सं व 138 एन.आई. एक्ट	कोतवाली गया, बिहार

8. The applicant/accused is a habitual offender. It is true that the trial against the applicant/accused has not been concluded within 60 days from the date of framing of charges, i.e.,



18.08.2025; however, merely on this ground alone, the applicant/accused cannot be considered entitled to bail under the provisions of Section 480(6) of the BNSS, as the said provision is not mandatory in nature.

9. In a case triable by the Magistrate, after the framing of charges, it cannot be said that only the Court is responsible for ensuring the completion of the trial, and there may be several reasons for delay in the case. In the present matter, various reasons such as the absence of the accused, the Presiding Officer being on leave, non-service of summons upon witnesses, etc., have contributed to the case not being disposed of within 60 days.

10. The offences alleged against the applicant/accused are of a very serious nature, and he has committed serious cyber fraud-related offences. The said offences are undermining the economy of India. Therefore, looking to the gravity of the offences alleged against the applicant/accused, the present bail application deserves to be rejected.

11. I have considered the arguments advanced on behalf of both parties and perused the material available on record.

12. In the present case, the allegation against the applicant/accused is that he lured the complainant with a "profit trading plan" and got a web application downloaded, and through Whats App messages, withdrew money at different times from the complainant's account, transferring a total amount of Rs.82 lakhs, out of which approximately Rs.65 to Rs.70 lakhs of the online fraud amount was deposited in the account of the applicant/accused.



13. In India, offences of cyber fraud are increasing rapidly. The Hon'ble Supreme Court has also taken the growing instances of cyber fraud very seriously. In this regard, it would be appropriate to refer to the following suo moto writ petition of the Hon'ble Supreme Court: **IN RE: VICTIMS OF DIGITAL ARREST RELATED TO FORGED DOCUMENTS. [Suo Moto Writ Petition (Criminal) No(s).3/2025]**

14. In such a situation, keeping in view the concern shown by the Hon'ble Supreme Court in the aforementioned suo moto writ petition, the act of the applicant/accused in committing online fraud of Rs.65–70 lakhs from the complainant's account, depositing the same into his own account, thereby causing wrongful loss to the complainant and wrongful gain to himself, can be considered to be of a very serious nature.

15. Furthermore in the case of **Sarafuddin Ayub Sheikh Vs State of Haryana (2025:PHHC:161686)**, the Hon'ble High Court of Punjab and Haryana in its order dated 20th November, 2025, refused to grant regular bail to a person accused of the offence of Cyber Fraud. The Hon'ble Court in it's judgment on para 7 held as under:

"7. The contemporary felony of cyber fraud presents a transgression sui generis that mandates its categorical exclusion from the judicial indulgence for granting benefit of regular bail. Digital economy is the unassailable locus of modern commerce, sustained entirely by the bedrock of public trust. Cyber Fraud acts as a corrosive insurgency, causing not merely an isolated pecuniary loss, but an aggravated systemic damage upon the public financial exchequer, thereby inflicting profound in rem detriment. Given its borderless architecture, technological sophistication and capacity to proliferate rapidly across jurisdiction, cyber fraud possess an inherent potential to destabilize economic



ecosystem and erode institutional credibility. Owing to the anonymity, transborder expanse and a propensity of causing substantial adverse impact, a court is compelled to look into the nature of crime, lest it may tantamount to granting judicial imprimatur to an ongoing systemic threat. Cybercrime, by its very design, thrives on speed, deception and digital manipulation; therefore, judicial response(s) must be equally calibrated, firm and resistant to the evolving ingenuity of such offenders."

16. **"In the present case, the legal question that has arisen before this Court is whether, in a non-bailable case triable by a Magistrate, if the trial is not concluded within a period of 60 days from the first date fixed for taking evidence, is it mandatory to grant bail to the accused under Section 480(6) of the BNSS?"**

17. The provisions enumerated under section 480(6) of BNSS are as follows:-

"(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs."

18. In the judgment passed by this Court in **Anwar Hussain vs. State of Rajasthan: {(2007) 1 RLW 12 (Raj.)}**, the following view was expressed:-

"From the plain reading of the aforesaid provisions, it is clear that ordinarily if trial is not completed within a period of sixty days from the first date fixed for taking the evidence, the accused is entitled to be released on bail but in the same provisions it is further provided that while considering the bail application on the count the court can refuse the bail by assigning the reasons. Therefore, it cannot be said that above provisions are mandatory in nature alike



the provisions of Section 167(2) Cr.P.C which provides that if investigation is not completed within the stipulated period then the accused petitioner is entitled to be released on bail mandatorily irrespective of merit of the case. The decision rendered by Hon'ble the Supreme Court in the case of Chandraswami (supra), in my considered view, does not help the present accused petitioner as it appears that the Hon'ble Supreme Court did not consider the interpretation or applicability of Section 437(6) Cr.P.C. I respectively disagree with the view taken by Madhya Pradesh High Court in Ram Kumar Raj Kumar Rathore's case (supra) wherein it was held that the provisions of Section 437(6) Cr.P.C are mandatory in nature and after the expiry of sixty days from the first date fixed for recording the evidence the accused acquires statutory right of being released on bail if trial is not concluded within the said period. As discussed earlier, I am of the considered view that the provisions of Section 437(6) Cr.P.C are not mandatory in nature, the accused does not get an absolute right to be released on bail under Section 437(6) Cr.P.C and the trial court can refuse the bail pleaded on this ground after assigning the good reasons. My above view is also fortified by the decision rendered by this Court in the case of Budhha Maharaj Singh's case (supra). The High Court of Jharkhand in Didar Singh's case (supra) has also considered this point at length and rightly held that in case the trial is not completed within sixty days from the first date fixed for evidence, the release of accused on bail is not mandatory but it depends upon the reasons to be recorded by the Magistrate for refusal to release the accused on bail".

19. In paragraph 22 of the judgment passed by the Division Bench of the Hon'ble Madhya Pradesh High Court in **Devraj Maratha vs. State of M.P. (2018 SCC Online MP 151)**, it has been held as follows: —

"22. In view of preceding analysis and enunciation of law governing the field, the reference is answered as under:

a) Provision envisaged in subsection (6) of Section 437 of the Code is mandatory in the sense that the Magistrate is to exercise his power of granting bail after the statutory period, if the trial is not concluded within that, however, passing of an order under Section 437(6) of the Code is mandatory, but not grant of bail.

(b) The Magistrate is vested with full power to take into consideration (i) the nature of allegations; ii) whether the delay is attributable to the accused or to



the prosecution and iii) criminal antecedents of the accused or any other justiciable reason, while refusing to grant bail."

20. In this regard, in paragraph 19 of the judgment passed by the Hon'ble Delhi High Court in **Robert Lendi vs. The Collector of Customs and Another, (1987 CRILJ 55)**, the following view was expressed:

"19. This brings us back to sub-section (6) of S. 437. The object of sub-section (6) of S. 437 is that if the trial of non-bailable offences in the court of Magistrate is not concluded within sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the magistrate otherwise directs".

21. The judgment passed by the Hon'ble Supreme Court in the case of **Subhelal @ Sushil Sahu vs. The State of Chhattisgarh, (Petition for Special Leave to Appeal (Crl.) No. 1314/2025)**, the following view was expressed:

"9. Sub-section (2) of Section 437 of the Code can be divided in two parts. The first part would indicate that it is mandatory, but in the next breath, the legislature has given discretion to the Magistrate not to grant bail by assigning reasons. In that situation, although the first part can momentarily said to be mandatory, it cannot be interpreted to give an indefeasible right to the accused of being released on bail, since that right is controlled/ regulated by the later part of the sub-section. If legislature had stopped at the end of the first part, making it mandatory for the Magistrate to release the accused on bail if the trial is not over within 60 days from the first date of taking evidence, the provision would have been somewhat akin to sub-section (2) of Section 167 of the Code. But, with the second part being in its place, the two provisions cannot be equated. The provision of sub-section (6) of Section 437 can certainly be said to have been inserted with an intention to speed up the trial without unnecessarily detaining a person as an under-trial prisoner for a prolonged time. Contrary to that, Section 167(2) leaves no room for any discretion with the Court so far as release of an accused on bail is concerned in the given set of circumstances. Under



this provision of the Code no reason is good to deny bail to the accused.

"10. Later part of sub-section (6) of Section 437 of the Code empowers a Magistrate to refuse bail by assigning reasons. In our view, the legislature, has incorporated this provision with a view to recognize right of an accused for a speedy trial with a view to protect individual liberty. At the same time, the legislature has tried to strike a balance by allowing the Magistrate to refuse bail by assigning reasons in a given set of circumstances. Meaning thereby, that where in the opinion of the Magistrate, it is not proper or desirable or in the interest of justice to release such accused on bail, he may refuse bail by assigning reasons. The provisions of Section 437(6), as such, cannot be considered to be mandatory in nature and cannot be interpreted to grant an absolute and indefeasible right of bail in favour of accused."

11. The grounds relevant for the purpose of refusing bail would not be the same which could have weighed with the Magisterial Court while refusing bail under Section 437(1) & (2) of the Code. That is a stage much prior to trial. Whereas the stage contemplated under Section 437(6), is after filing of charge-sheet and framing of charge when trial commences and the accused prefers an application after lapse of 60 days from first date fixed for taking evidence. If the grounds were expected or intended by the legislature to be the same, there was no reason for the legislature to insert sub-section (6) of the Code. In our view, therefore, reasons for rejection of application under sub-section (6) of the said Section have to be different and little more weighty than the reasons that may be relevant for rejection for bail at the initial stage. If this meaning is not given, sub-section (6) would be rendered otiose."

22. On the same lines, in paragraph 7 of the judgment passed by the Division Bench of the Hon'ble Gujarat High Court in ***Nehul Prakashbhai Shah vs. State of Gujarat, (2012) 07 GUJ CK 0032***, the following view was expressed:

"10. A close reading of provisions of Sec. 437(6) of the Code, prima facie would show that a duty is cast upon the concerned Magistrate to see that the trial of an accused is concluded within a period of sixty days from the first date of taking evidence. The Magistrate is obliged to make all possible endeavours to see that provisions contained in Sec. 437(6) of the Code are complied with in its true letter and spirit. To that extent, it appears that a right accrues in favour of an accused to tell the Court concerned that the trial has



not been concluded within sixty days from the first date fixed for taking evidence for no fault on his part, and therefore, he should be released on bail, may be at that stage, there is some discretion vested in the Magistrate to refuse bail for the reasons which the Magistrate may deem fit to record. Such reasons cannot be routine. Such reasons have to be weighty enough to outweigh the right that accrues to the accused in first part of sub-sec. (6) of Sec. 437 of the Code, which appears to be drawing force from Art. 21 of the Constitution of India”.

23. From the judgments cited above, it is evident that merely because the trial of an accused in a non-bailable case triable by the Court of Magistrate has not been completed within 60 days from the first date fixed for recording of evidence, it does not automatically entitle the accused the benefit of bail under Section 480(6) of the BNSS.

24. In this case, charges were framed against the accused on 18.08.2025 for the offences under Sections 406, 420, 120B of the Indian Penal Code and Sections 66C and 66D of the Information Technology Act, and the same were read over and explained to him. It is true that from the date of framing of charges, i.e., 18.08.2025, the trial has not been concluded within 60 days. However, upon perusal of the order sheet recorded by the trial Court in this matter, it is evident that on 30.08.2025 the accused did not appear before the Court. On 25.09.2025 and 23.10.2025, the Presiding Officer was on leave. Further, on 18.08.2025, 03.09.2025, 12.09.2025, 25.09.2025 and 13.10.2025, in compliance with the Court's orders, the concerned criminal clerk did not issue summons/warrants for securing the presence of the witnesses.



25. In compliance with the Court's orders dated 08.10.2025, 15.10.2025, and 23.10.2025, summons were issued to the witnesses; however, it has not been mentioned in the order sheet by the learned Presiding Officer whether those summons were returned served or unserved. On 15.10.2025, witness Kuldeep appeared before the Court, but his statement was not recorded by the learned Trial Court on that date. No reasons for not recording the statement of the said witness on 15.10.2025 has been mentioned by the learned Trial Court in its order dated 15.10.2025.

26. It is generally observed that in many Magistrate Courts, after framing of charges against the accused, no proper and meaningful efforts are made by the concerned Presiding Officer to secure the attendance of witnesses in magistrate triable cases. If, in compliance with the Court's order, summons are not issued by the concerned clerk, or if issued but not duly executed by the concerned police station, or if the summons are not returned either served or unserved, then in such circumstances the Presiding Officer does not pass appropriate and effective orders in the order sheet against the concerned clerk or the concerned police personnel who are responsible for carrying out the said legal duty, nor are proper and meaningful efforts made to ensure the service of summons upon the witnesses.

27. Further, even when a witness appears before the Court, the reasons for not recording the witness's statement are often not reflected in the order sheet. As in the present case, on



15.10.2025, witness Kuldeep appeared, but the Presiding Officer neither recorded his statement nor mentioned any reason in the order sheet dated 15.10.2025 for not doing so. It is true that the number of pending cases in Magistrate Courts is extremely high, and in such cases various circumstances come before the Court for consideration in relation to the non-conclusion of the trial within 60 days from the date of framing of charges. If the applicant/accused is not present, or if any application is filed by him in the case, time is spent in disposal of such application, the Presiding Officer is on leave, summons to witnesses are not served by the clerk, or the concerned police officials fail to execute service, or the summons return unserved, or due to several other such circumstances, it may happen that within the prescribed period the trial of the accused is not concluded within 60 days in many cases pending before the Magistrate's Court.

28. However, where the applicant/accused is in judicial custody, in such a situation it is the duty of the Presiding Officer of the Court to ensure that, in accordance with the provisions contained in Section 480(6) of the BNSS, the trial of the applicant/accused is concluded within 60 days from the first date fixed for recording evidence after the framing of charge.

29. Although, in view of the principles laid down in the above discussion, it has not been considered mandatory that the trial must in all circumstances be concluded within 60 days from the first date fixed for recording evidence after framing of charge, yet if the trial of the accused is not concluded within the said period of



60 days, then in such a situation, keeping in view the principles laid down in the aforesaid decisions, the Magistrate is required to record reasons in this regard.

30. As seen in the present case, and as is also noticed in many other cases, after framing of charge against the applicant/accused, the Presiding Officer often does not make proper and meaningful efforts to secure the presence of witnesses, nor are effective orders passed in this regard. In such circumstances, proper monitoring is not being carried out by the Magistrate Courts in pending cases relating to non-bailable offences where the accused is in judicial custody, nor is such monitoring being appropriately undertaken by the District & Sessions Judge of the concerned district.

31. In this situation, it appears just and proper that directions be issued to all District & Sessions Judges and Magistrate Courts across the State of Rajasthan that, in pending cases relating to non-bailable offences, the concerned judicial officers shall make every possible effort, in accordance with the provisions contained in Section 480(6) of the BNSS, to conclude the trial within a period of 60 days from the first date fixed for prosecution evidence after the framing of charge, particularly in cases where the accused is in judicial custody.

32. They shall also ensure that, after the framing of charge and until the conclusion of the trial of the applicant/accused, reasonable and meaningful efforts are made to secure the



presence of witnesses before the Court, and effective orders are passed in this regard.

33. Unnecessary long adjournments shall not be granted in such cases without any just and proper reason. Further, the District & Sessions Judges of the concerned districts shall properly monitor such cases and issue appropriate directions to the Magistrate Courts within their jurisdiction for disposal of the cases in accordance with the procedure prescribed under law.

34. In the present case, the applicant/accused is charged with an offence of an extremely serious nature. It is alleged that he has committed cyber fraud with the complainant and dishonestly obtained an amount of approximately Rs.65–70 lakhs through online cheating, which was deposited into his bank account. Further, there are four other criminal cases pending against the applicant/accused. In those cases, apart from offences under Sections 406, 420 and 120B of the IPC, offences under the Information Technology Act and other relevant provisions have also been alleged. The offences in those cases are stated to be of a nature similar to the present one.

35. Having regard to the totality of the facts and circumstances of the case, considering the arguments advanced by the Ld. Counsel for the parties, especially considering the fact that four other criminal cases are pending against the applicant/accused as well as looking to the nature and gravity of the offences, without expressing any opinion on merits/demerits of the case this court is not inclined to enlarge the applicant/accused on bail.



36. Consequently, the bail application filed on behalf of the applicant/accused, **Ajit Kumar Shukla S/o Shri Dinesh Kumar Shukla**, is hereby dismissed.

37. A copy of this order shall also be placed before the Hon'ble The Acting Chief Justice, Rajasthan High Court, through the Registrar General, Rajasthan High Court, for sending it to all the District and Sessions judges for it's circulation to all the Magistrate Courts under their respective jurisdiction for the sake of necessary compliance of the order.

(CHANDRA PRAKASH SHRIMALI),J

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