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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 13.04.2026

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BAIL APPLN. 2071/2025

RISHABH GEHLOT

.....Petitioner

Through:

Mr. Amit Chadha, Sr. Advocate with
Mr. Kunal Sharma, Mr. Puneet
Rathor, Mr. Mohit Singh, Mr. Atin
Chadha, Mrs. M. Chadha, Mr. Harjas
Singh, Ms. Rekha Yadav, Ms. A.
Singh and Mr. Ankush Sharma,
Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through:

Mr. Amit Ahlawat, APP for State
with IO/SI Lakhan.
Mr. Deepak Tiwari and Mr. Saksham
Upadhyay, Advocates for
complainant.

CORAM: JUSTICE GIRISH KATHPALIA**J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 45/2021 of PS Economic Offences Wing for offence under Section 406/409/420/120B/506 IPC.

2. This regular bail application was listed for hearing for the first time on 28.05.2025 before another bench of this court. Thereafter, the matter came up before another learned Single Judge of this court, where the matter



was heard for five dates of hearing, and even specific queries were raised by the learned Judge as mentioned in order dated 13.11.2025, for explanation whereof time was taken by the counsel for the accused/applicant. Along with 179 such old pending bail applications, this application also was transferred to this bench, and on the very first date (28.03.2026), after traversing through the previous record, I directed the application to be listed before the same bench where it was heard partly. Accordingly, it was placed before the same learned Single Judge, but there the learned senior counsel for accused/applicant submitted that this is not a part heard matter, so the application was sent back to this bench and the same has been listed today.

3. As against the above backdrop, I have heard learned senior counsel for accused/applicant and learned APP for State assisted by IO/SI Lakhan.

4. At the outset, I must deprecate conduct on the part of the investigating agency in this case, as misleading status report dated 28.07.2025 was filed by Mr. Keshav Mathur, ACP, EOW, Delhi making reference to certain audio conversations recorded between the victim and the accused/applicant. On being called upon to play those audio recordings in court, the IO/SI Lakhan stated that those audio recordings pertain to co-accused and not to the present accused/applicant. But no explanation has been advanced as to why that reference was made related to the present status report *qua* the present accused/applicant.

5. Broadly speaking, prosecution case is that the accused/applicant



Rishabh impersonated as Shaurya and cheated the complainant *de facto* lady and her daughter multiple times, inducing them to pay money under different pretexts, such as arranging a government job for children of the complainant *de facto*, arranging tenders in MTNL, BMW and Google, apart from investment in companies. Besides, in the name of getting daughter of the complainant *de facto* married, money was received by the accused/applicant. Not only this, the accused/applicant even collected money from the complainant *de facto* in the name of a surgery which his nephew had to undergo in Australia, followed by death of that nephew and loan of brother-in-law of the accused/applicant to be paid back. Further, the accused/applicant also took money from the complainant *de facto* under the pretext of bringing the dead body of his father from Australia. According to prosecution, the WhatsApp chats between the accused/applicant and the complainant *de facto* as well as audio recordings of conversations in addition to the bank statements of the accused/applicant establish the offences alleged.

6. Learned senior counsel for accused/applicant contends that the prosecution case does not inspire confidence insofar as it is not believable that a person would allow herself to be cheated so many times on so many different pretexts. Something more than what meets the eye exists in this case according to learned senior counsel. Further, it is contended that out of 05 persons named as accused in this case, 04 were not arrested and it is only the accused/applicant who was arrested and suffers incarceration. Learned senior counsel submits that the accused/applicant got arrested on 21.07.2023



and the maximum sentence that can be imposed under Section 420 IPC (*under which the chargesheet was filed*), being 07 years imprisonment, the accused/applicant has spent more than 1/3rd period in jail, so in terms of order dated 23.08.2024 passed by the Supreme Court in the case of ***In Re:- Inhuman Conditions in 1382 Prisons***, [Writ Petition (Civil) 406/2013], as well as law laid down by this court in the case of ***Suleman Samad vs State of NCT of Delhi***, Bail Application 766/2025, the accused/applicant deserves to be granted bail. Further, it is contended by learned senior counsel that the alleged cheating transactions took place in the year 2016-17 but the FIR came to be registered only in the year 2021 and there is no explanation of this delay. Lastly, it is contended that even the WhatsApp chats referred to by prosecution do not involve the present accused/applicant.

7. On the other hand, learned prosecutor assisted by the IO as well as complainant *de facto* and her counsel opposes the bail application, contending that the amount cheated by the accused/applicant is quite high, so he does not deserve bail. It is also contended that the accused/applicant could be arrested only after he was declared Proclaimed Offender, so it would not be safe to release him on bail. As regards the audio conversation mentioned above, learned APP submits that the same was between the complainant *de facto* and co-accused Pankaj, but Pankaj has not been arrested so far. As regards the WhatsApp chats, it is explained by the IO that the same was between the complainant *de facto* and Shaurya; and that the mobile phone used belonged to one Dilip, who stated that he gave the same to the present accused/applicant to use, and it is the accused/applicant, who



came to receive that amount in cash from the complainant *de facto*. However, as regards the period of incarceration, it is not denied that the accused/applicant is in jail since 21.07.2023 and charges are yet to be framed.

8. From the aforesaid, many questions arise about the conduct of the investigating agency. It remains unexplained as to why out of 05 accused persons, only one was arrested. As recorded in the chargesheet itself (*pages 66-67 of paperbook*) , it is co-accused Nitin who impersonated himself as CBI Sub Inspector and extorted money from the complainant *de facto* under the pretext of getting back her allegedly cheated money from the present accused/applicant. Further, it is recorded in the chargesheet that the co-accused Nitin even forged an identity card to represent himself as CBI Sub Inspector. But Nitin has not been arrested so far. For that matter, as mentioned above, even Pankaj has not been arrested so far. Of course, it is the prerogative of the investigator to arrest or not to arrest an accused. But in the factual matrix of the present kind, such conduct on the part of the investigating agency raises unanswered questions, to say the least. That too in the light of the above mentioned observations that the status report was misleading while making reference to audio recordings, which today are stated to be not concerning the present accused/applicant.

9. In the above backdrop, argument of learned senior counsel for accused/applicant is that the manner in which the prosecution story unfolds presents a picture that is not believable. But that must be tested only by trial



court on the basis of evidence adduced. However, for present purposes, the argument is significant.

10. Most important is the period of incarceration already undergone by the accused/applicant, especially in the light of the status of proceedings where till date even charges have not been framed and rather supplementary investigation is being carried out. Admittedly, the accused/applicant is a first time offender and has never been convicted of any offence in the past. The accused/applicant has spent more than 1/3rd of the maximum imposable sentence of 07 years incarceration in jail, so Section 479 BNSS comes into play.

11. In the case of ***In Re:- Inhuman Conditions in 1382 Prisons*** (supra) the Supreme Court issued specific directions, as extracted below:

“4. In that view of the matter, it is deemed appropriate to direct immediate implementation of Section 479 of the BNSS by calling upon Superintendents of Jails across the country wherever accused persons are detained as undertrials, to process their applications to the concerned Courts upon their completion of one-half/one-third, as the case may be, of the period mentioned in sub-section (1) of the said provision, for their release on bail. This step will go a long way in easing overcrowding in jails which is the primary focus of this Court in the present petition.

5. The aforesaid steps shall be taken as expeditiously as possible, preferably within two months from today. Reports shall be submitted by the Superintendent Jails to their respective Heads of the Department within the same time line for a comprehensive affidavit to be filed by each State Government/Union Territory through their respective Chief Secretaries. The affidavits shall furnish the details of the number of undertrials who would be entitled to extension of the benefit of Section 479 of the BNSS, the number of applications moved



before the concerned Courts for their release and the number of undertrials actually released by the date of filing of the affidavits.”

12. Further, a coordinate bench of this court in the case of **Suleman Samad** (supra) also took the same view, observing thus:

“8. In this background, the learned counsel appearing for the applicant argues that the applicant has now remained in judicial custody for more than 2 years and 04 months and he is now entitled to grant of bail in view of Section 479 of BNSS, 2023. It is also contended that the applicant is 60 years old and suffering from certain medical ailments and the trial is proceeding at a slow place.

9. The learned APP for the State, on the other hand, argues that the allegations against the applicant are serious in nature. However, he fairly submits that the applicant has undergone more than 1/3rd of the maximum punishment which he may be awarded upon conviction.

...

12. Concededly, the applicant herein has undergone more than 1/3rd of the maximum imprisonment that he may be awarded for the alleged offences, i.e. more than 02 years and 04 months, as against maximum permissible sentence of 07 years for offence under Section 10 of the POCSO Act, 2012. The learned APP for the State has also fairly conceded that the applicant is entitled to grant of bail in view of Section 479 of BNSS.”

13. Considering the above circumstances, especially the mandate of Section 479 BNSS, I do not find any reason to further deprive liberty to the accused/applicant.

14. Therefore, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction



of the Trial Court.

15. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

15.1 Also, I find force in the submission of learned senior counsel for accused/applicant that *despite specific directions of the Supreme Court extracted above, so many first time offender prisoners (who have never been convicted of any offence in the past) are languishing in jails even after suffering incarceration for a period 1/3rd or at times even more than that of the maximum period for which they can be sentenced.* It is submitted by learned senior counsel for accused/applicant that *the jail authorities should strictly comply with the above noted directions of the Supreme Court.* That being so, as suggested by learned senior counsel, *copy of this order be sent to all Principal District and Sessions Judges as well as the Director General (Prisons), Delhi with the directions to ensure strict compliance of the above mentioned directions of the Supreme Court. A copy of this order be also sent to the Secretary, DHCLSC as well as to the Member Secretary, DLSA with the directions to take up such matters so that directions of the Supreme Court in this regard are complied with, in the letter and spirit.*

**GIRISH KATHPALIA
(JUDGE)**

APRIL 13, 2026/ry