IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

Reserved on: 19.11.2025
Pronounced on: 26.11.2025
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*Whether the operative part or full judgment is pronounced: **Full***

Bail App No.52/2025

NAGRAJ V

...PETITIONER(S)/APPELLANT(S)

Through: - Mr. Areeb Kawoosa, Advocate, with Mr. Aatir Kawoosa, Advocate.

Vs.

UT OF J&K

...RESPONDENT(S)

Through: - Mr. Mohsin Qadiri, Sr. AAG, with Ms. Maha Majeed, Assisting Counsel-for R1. Mr. S. R. Hussain, Advocate-for R2.

CORAM: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1) The petitioner has invoked the jurisdiction of this Court under Section 483 of BNSS seeking bail in a case arising out of FIR No.77/2024 for offences under Section 420, 467, 468, 471, 419 read with Section 120-B of IPC registered with Police Station, Anantnag, which is stated to be pending before the Court of learned District Mobile Magistrate, Anantnag (hereinafter referred to as "the trial Magistrate").

2) Before coming to the grounds on which the petitioner has sought bail, it would be apt to briefly narrate the facts leading to the filing of the charge sheet before the learned trial Magistrate.

3) The FIR has been registered on the basis of a written complaint lodged by the complainant, namely, Major Kumar Dixit, who has been impleaded as respondent No.2 to the present bail application. The contents of the complaint lodged by respondent No.2 are reproduced as under:

> SUBJECT: APPLICATION SEEKING REGISTRATION OF FIR AGAINST THE ACCUSED PERSONS NAGARAJ V AND OTHERS ON THE GROUNDS BELOW MENTIONED
>
> Respected sir,
>
> 1. May I submit following few lines for your kind consideration and favourable action please. Sir myself Major Dharm Kumar Dixit presently posted as second in command supply depot Khannabal, Anantnag.
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> 2. Sir through one of my known person I met Mr Nagaraj V (S/o K Visnu Sagar D-132, Ground Floor, Defence Coloney, New Delhi). He came to visit me here in Anantnag along with a person named C Moorthi and stayed with me in August last Year (1922 August 2023), I also took him for holy Amarnath yatra. During our interaction he told me that he is a big businessman, financer, co-producer of Bahubali and he want to invest in Kashmir also. So I showed him places in Pahalgaon, apple valley where he can invest in hotels/property. Prima facie he appeared to be a fine person, he won my trust through Godly and spiritual talks, also showed me photographs with few influential people to make me believe whatever he is saying is right. He also asked me if i am interested to buy a house in Delhi, he can get me at reasonable rates. To which i said yes. After going from here he regularly asked me the documents of land, photos and videos which i sent to him on WhatsApp.
>
> 3. On 8th of September 2023 he called me and requested me to transfer Rs 12 lakh in his father's account because he is going to President house and will not be able to do transaction. On his trust i did transfer Rs 11 Lakh from my account and Rs 1 lakh from my wife's account. We both are having our salary account in SBI Anantnag, Lal Chowk.

4. On 12 September he called me in Delhi to discuss property matter. I went to his house D-132 Defence Coloney New Delhi, where i stayed for a night and he took me for dinner in SARVANA BHAVAN JANPATH New Delhi, and told me that owner is his client, in evening only he showed me the property paper of his house and claimed that he and his father are owner of his house and he want to sell his house as it is of not very useful to them as they hardly stay in Delhi, Since i was looking for a property so i agreed to buy and asked him to do some written agreement and give me a copy of registry for which he said he will send by post as it was in Chennai but he never did so. He also asked me that since i am from Army so he trust me and want to do some long term business. He asked me that since he is a financer and want to support good people so i trusted him and sent some good profiles of few business person, but he never gave single penny to anyone. On 28 Oct 2023 he called me to Chennai to some apartment where renovation work was going on and told me that it is his production house (exact place I do not remember as some driver took me in car, to that apartment) for lunch he along with Ranjeet Surya Ganesan (the same person, in whose account Nagaraj V made me transfer Rs 30 lakh) took me for lunch at Taj Chennai and to some temples in Chennai, also he has taken me to Lata Rajnikant house and told me that he is also financing her just to gain my confidence and prove that he is big person naturally i believed so. During this time he used to message me very early in the morning loaded with spiritual thoughts and voice messages (between 2am 4am) in a way i was completely brain washed and hypnotized and used to believe whatever he said. He also made me talk to some person through his phone and told me that he was his father. Whenever he used to call me on phone, he pretended he is very busy always with some big person. He told me that he is coming with his wife soon to Kashmir to finalize his property and kept me continuously engaged in some or the other work. He continued to take me in confidence and visited again Kashmir for investment, this time he came here along with his wife (Shweeta BS) from (25 to 28 November 2023). This time they met my wife and daughter also and i made him stay at Army guest house on 25 November 2023, Radisson Pahalgaon on 26 November and Vintage hotel Srinagar on 27 November, On 28 November they went back to Delhi. He came to Lucknow also with his wife from 16h to 18th Dec 2023 to meet business man whom he wanted to finance, in Lucknow i made him stay at Taj Lucknow. During this time he kept asking me money for house. He took money in three accounts:

(a). K VISNU SAGAR (His Father) Account No-41917598797, SBI BRANCH MYLAPORE, IFSC-SBIN000965 (RS 32 LAKH)

(b). RANJEET SURYA GANESAN (His Chennai friend and production partner) ACCOUNT NO 37579752652 SBI BRANCH RANGARAJAPURAM, CHENNAI (30 LAKH)

(c). NAGARAJ V ACCOUNT NO-7846781483, KOTTAK MAHINDRA BANK RAJA ANNAMALAIPURAM (44 LAKH)

5. He has taken total amount of Rs One Crore and Six Lakh in above three accounts through banks which i have given him

from my account, my wife's account and taken a loan of Rs 70 Lakh from bank and Rs 7 lakh from friends and relatives. He took this money from me from Sept 2023 to Dec 2023.

6. Now whenever i asked him to do the legal formalities about property, he delayed things quoting his busy schedule from past four Months. He claimed that he does not know how to speak Hindi but one day he sent me a long message on WhatsApp stating that he spoke to CM UP Mr YOGI JI for 12 minutes and told me that Yogi ji invited him to visit UP as state guest which raised my doubts and i started cross checking his statements but now it was too late meanwhile i also enquired and get to know that property does not belong to him and he showed me the false paper, in the mean time while cross checking his facts there was nothing substantial, he proved to be a cheater who dishonestly and fraudulently took my very hard earned money, broken my trust and faith, continuously harassed me mentally, emotionally and caused monumental agony to me and my family. Now when i asked him to return my money he is postponing. delaying from past four Months. He said he will pay me the entire amount by cheque he gave me cheques of One Crore which got bounced on 15th of April 2024 due to insufficient funds (I had waited for one more week he issued cheques for 4 April told me put in bank on 12 April after his confirmation only i presented cheques in bank) so far he has only paid me back Rs Five Lakh and Twenty Five Thousand only. paying interest of loan from my salary, facing very difficult times. Sir Whenever i am asking him for my money he always gives a story.

7. Some other important facts which will assist police authorities to find out truth are:-

(a) Person named C Moorthi who came along with Nagaraj V during visit of Kashmir whom he introduced me as his personal secretary and translator (because Nagaraj V claimed he cannot speak Hindi) later happened to be a Taxi Driver when i found out.

(b) During Amaranth yatra i got his registration done through Aadhar later when i got cross checked his address he was staying on rent and vacated Two Year before without any intimation (his Chennai address is Nagaraj V, S/o Vishnu Sagar, Flat No 07, Second Floor, River View apartment, No 2/10 Boat Club road, 3 Avenue, Raja Annamalaipuram, Cheenai, TN-600028).

(c) His Delhi residence of Defence Coloney D-32 New Delhi which he claimed he is owner and shown me false papers also. On verification i got to know he is staying on rent.

(d) When i got very much troubled and frustrated i went to his house to get money on 30th March 2024, he told me i am supporting you with double amount and gave me cheques of Rs Two Crore and told me i am compensating the harassment which i caused you and you return One Crore back to me of equal time. He signed the cheques and mentioned the amount as well and instructed his driver Perumal to mention dates as he told his hands are shaking so he is not able to mention all the details on the cheques we had good conversation. He also send me photos of all cheques from his WhatsApp just to confirm that he is issuing these cheques for paying my dues. Only after his confirmation and assurance i presented the cheque of One Crore which also got bounced. Meantime i asked about his wife because she has invited us when she came to Anantnag and my daughter wanted to talk to her. He told me that she went for shopping(Swetha B S, D/o B S Srinivasa Murthy) and her behavior was also fraudulent so it was evident that she is not his wife and her address mentioned in Aadhar was also misleading which Nagaraj V has given during her stay in Taj Lucknow. (It is requested to consider and confirm her identity)

(e) He is giving me assurances in form of message and voice message. I am only having his mobile no as of now rest everything proved as false and fake.

(f) I have a genuine fear sir if he is not arrested immediately he might scape, then it will be very difficult to find him out.

8. Sir i am feeling completely harassed, cheated, and dejected. He has fraudulently taken my money. He has caused me severe mental and emotional trauma. He has breached and shattered my trust by taking me in good faith I apprehend that accused person may escape from the territorial jurisdiction of India then would be very difficult to trace him out so it is humbly requested that quick action be initiated against the accused person for his arrest as soon as possible.

9. May i therefore request your kind self to take appropriate action against him so that my money is recovered and guilty is punished. I am ever ready for all kind of support and cooperation from my end, further all details i will share during investigation along with all supporting documents with proof. Meanwhile the FIR be lodged against the above named accused persons so that my money be recovered and no other person will get involve with his cheating tactics and cause breach of trust to others.

10. Looking forward for early resolution of my problem sir.

4) After lodging of the FIR on the basis of the afore-quoted complaint, investigation of the case was set into motion. During the course of investigation, it was found that an amount of Rs.1.06 crore has actually been transferred from the accounts of the complainant and his wife to various accounts of the petitioner and his associates fraudulently. It was also revealed that the complainant was induced fraudulently to part with his money in favour of the petitioner and his associates (co-accused). It was further revealed that the petitioner had represented himself to be the owner of a property at Defence Colony, New Delhi and he had shown fake property documents to the complainant with a view to induce him to pay the amount. As per the chargesheet laid before the trial Magistrate, an amount of Rs.44.00 lacs was transferred by the complainant in the bank account of the petitioner, an amount of Rs.32.00 lacs was transferred by the complainant in the account of father of the petitioner, namely, accused. K. Vishnu Sagar, and an amount of Rs.30.00 lacs was transferred by the complainant in the account of accused Ranjeet Surya Ganeshan. It was also found that the complainant and his wife had taken a loan of Rs.70.00 lacs from the bank for the purchase of aforesaid property.

5) The Investigating Agency collected the CDR of the petitioner and his associates (co-accused), namely, K. Vishnu Sagar, Ranjeet Surya Ganeshan and Sheweta BS. The CDRs of R. P. Tiwari, Darshanji, C. Murty and Pirumal were also collected and analyzed. The Investigating Agency arrested the petitioner on 09.05.2024 from his house D132, Defence Colony, New Delhi, where he was putting up at the relevant time. During investigation of the case, it was found that the petitioner was having two Aadhar cards with different addresses and passport with a different address. It was also found that the petitioner was having two social media accounts, one in his own name and the other in a different name. The Investigating Agency found that the petitioner was uploading his photos with political leaders on social media sites and by taking advantage of these photographs, he was duping and cheating the people. The Investigating Agency is also going into the allegations with regard to access of the petitioner to Parliament and Rashtra Pati Bhawan. It is alleged in the chargesheet that father of the petitioner, K. Vishnu Sagar, his wife Shweta BS and his associate Ranjeet Surya Ganeshan, are in league with him.

6) During the course of investigation, it surfaced that the petitioner is involved in many financial scams in the State of Tamil Nadu and as per data available, the petitioner is found to be involved in FIR No.268/2021 registered with Police Station, Shastri Nagar (Tamil Nadu) for offences under Section 109, 120-B, 420 and 409 IPC, FIR No.395/2017 registered with Police CCB1District Chennai for offences under Section 420,506(1), 34 of IPC and FIR No.78 of 2014 registered with District Crime Branch, Kanyakumari for offences under Section 420 and 506 IPC. It was also found that non-bailable warrants issued by Chennai Metropolitan Magistrate are pending against the petitioner and that his bail has been cancelled by Madras High Court in one of the cases.

7) The Investigating Agency, on the basis of the search warrant issued by the Judicial Magistrate, 1st Class, Anantnag, also conducted search of House No.D132, Defence Colony, New Delhi, wherefrom the following items were recovered:

1. Passport of the petitioner;
2. Three cheques of ICIC bank Chennai, Mount Road Branch;
3. Thirteen cheques of SBI Branch Chennai;
4. Three different Aadhar cards;
5. One cheque of Kotak Bank;
6. One iPad;
7. Cheque book of Kotak Bank, Chennai;
8. One gold ornament;
9. A photocopy of the sale deed.

8) During investigation, it was also found that the property D132, Defence Colony, New Delhi, which the petitioner had offered for sale to the complainant actually belongs to Prateek Infratech India Pvt. Ltd., a real estate group and not to the petitioner.

9) On the basis of the aforesaid findings arrived at by the Investigating Agency during investigation of the case, the offences under Section 420, 467, 468, 471, 419 and 120-B IPC have been found established against the petitioner and co-accused, whereafter the chargesheet has been laid before the trial Magistrate.

10) From the perusal of the trial court record, it appears that vide order dated 18.09.2025, charges for aforesaid offences stand framed against the petitioner and trial of the case is going on. It appears that chargesheet has been presented before the trial court on 06.08.2024 and till date, part statement of one of the prosecution witnesses has been recorded before the trial court.

11) It also appears that the petitioner had applied for bail before the learned Judicial Magistrate, 1st Class (Munsiff), Anantnag, in the month of May, 2024, which was rejected by the said court on 12.06.2024. He moved another bail application before this Court being Bail App No.57/2024 and the same was dismissed vide judgment dated 26.07.2024 giving liberty to the petitioner to approach the concerned court afresh after the chargesheet is filed. It further appears that after the filing of chargesheet, the petitioner again moved a bail application before the court of learned Chief Judicial Magistrate, Anantnag, who vide order dated 03.10.2024, again dismissed the bail application of the petitioner. It seems that the petitioner had also challenged the chargesheet by filing a petition under Section 482 of the Cr. P. C before this Court which came to be dismissed by this Court vide judgment dated 13.02.2025. The petitioner again moved an application for grant of bail before the learned Sessions Judge, Anantnag, but the same was dismissed by the Special Judge (UAPA

Cases), Anantnag, vide order dated 11.01.2025. It is in these circumstances that the petitioner has again invoked jurisdiction of this Court under Section 483 of BNSS seeking bail in his favour.

12) It is being contended by the petitioner that investigation of the case stands already completed and the chargesheet has been filed, as such, detention of the petitioner in custody is no longer required. It has been contended that investigation of the case has been influenced by the complainant who happens to be an Army Officer posted in District Anantnag and he has substantial influence on the Investigating Agency. It has been further contended that the petitioner is being subjected to pre-trial punishment and that there is no statutory bar to the grant of bail in respect of the offences for which he has been charged. It has also been contended that during incarceration of the petitioner, a number of complaints under Section 138 of Negotiable Instruments Act stand filed by the complainant against the petitioner and because of his incarceration, he is unable to contest these complaints. It has been further contended that the mother of the petitioner is an old aged lady and has nobody else to look after and in order to take care of her old age and health problems, she needs constant monitoring by the petitioner

13) The bail application has been contested by the respondent-State as well as by the complainant. However, reply to the bail application has only been filed by the complainant. In his reply, the complainant has, besides narrating the allegations made in the chargesheet against the petitioner, given the details of FIRs which have been registered against the petitioner in Chennai. It has been stated that in FIR No.78/2014 registered with Police Station, Kanyakumari, the amount of money involved is Rs.53.00 lacs, in FIR No.395/2017 registered with District Crime Branch, Chennai, the amount of money involved is Rs.79,30,000/, in FIR No.268/2021 registered with Police Station, Shastri Nagar, the amount of money involved is Rs.92.00 lacs and in FIR No.234/2021 registered with CCB1, the amount of money involved is Rs.92.00 lacs. It has been contended that bailable and non-bailable warrants are pending execution in as many as five cases against the petitioner. It has been further submitted that even Madras High Court, in a case, has cancelled the bail of the petitioner on the ground that eight previous cases are pending against him. According to the complainant, there is no permanent address of the petitioner and he has obtained different Aadhar cards depicting different addresses and even the address of the petitioner reflected in his passport and election voter card differ from each other.

14) On the basis of aforesaid assertions, it is being contended that the petitioner is a notorious fraudster and in case bail is granted in his favour, he will not be available either to the Investigating Agency or to the trial court. The respondent-complainant has also projected that the petitioner has duped many people which is evident from several news reports and medial reports, copies whereof have been placed on record by the complainant along with his reply. On the basis of these allegations, it has been submitted that the petitioner does not deserve the concession of bail.

15) I have heard learned counsel for the parties and perused the material on record including the material produced before the Court and the trial court record.

16) It is by now a settled position of law that while considering the bail application of an accused, the following factors are required to be kept in mind by the Court:

> *(i). The nature of the alleged offence, the nature of accusation and severity of punishment in case of a conviction;*
>
> *(ii) Whether there exists a reasonable apprehension of the accused tampering with the witnesses or being a threat to the complainant or the witnesses'*

> *(ii). The possibility of securing presence of the accused at the trial or the likelihood of the accused fleeing from justice;*
>
> *(iv). The antecedents and circumstances which are peculiar to the accused;*
>
> *(v). Whether prima facie the ingredients of the offence are made out on the basis of the material collected by the Investigating Agency;*
>
> *(vi) The interests of the public or the State and similar other considerations.*

17) The aforesaid principles have evolved from the various judicial precedents laid down by the Supreme Court in a number of cases including **Prahlad Singh Bhatti vs. NCT of Delhi,** (2001) 9 SCC 280, **Ram Govind Upadhyay vs. Sudarshan Singh,** (2002) 3 SCC 598, **State of UP vs. Amarmani Tripathi,** (2005) 8 SCC 21, **Prasanta Kumar Sarkar vs. Ashish Chatterji,** (2010) 14 SCC 496, **Sanjay Chandra vs. CBI,** (2012) 1 SCC 40, and **P. Chidambaram vs. CBI,** (2020) 13 SCC 791.

18) Now coming to the facts of the present case. The petitioner is facing trial for offences under 420, 467, 468, 471, 419 read with Section 120-B of IPC. Excepting offence under Section 467 IPC, all other offences carry a maximum punishment of seven years imprisonment. Even though offence under Section 467 IPC carries a maximum punishment of life imprisonment or imprisonment for a period of ten years, nonetheless there is no statutory or legal bar in enlarging an accused on bail facing trial for such offence. In fact, all the offences, for which the petitioner has been charged, are triable by a Magistrate. The chargesheet against the petitioner has already been filed and the trial is going on. Therefore, in normal circumstances there should be no difficulty in acceding to the request of the petitioner for grant of bail. However, learned Senior AAG appearing on behalf of the respondent State and Mr. S. R. Hussain, learned counsel appearing for respondent No.2, have vehemently contended that the antecedents of the petitioners are criminal in nature and having regard to his past track record, he does not deserve the concession of bail. Reference is being made to various FIRs registered against the petitioner, most of which relate to the offence of cheating, as also to the fact that non-bailable warrants issued by several courts are pending execution against the petitioner. It has been contended that even Madras High Court has proceeded to cancel the bail granted to the petitioner after noticing the fact that there are several cases pending against him. It has been further contended that the petitioner is involved in an economic offence of a huge magnitude and, therefore, on this ground alone, he does not deserve the concession of bail.

19) Learned counsels for the respondents in support of their contentions have placed reliance upon the judgments delivered by the Supreme Court in the case of **Y. S. Jagan Mohan Reddy vs. CBI,** (2013) 7 SCC 439**, Chandrakeshwar Prasad @Chandu Babu v. State of Bihar,** (2016) 9 SCC 443 and **Harjit Singh vs. Inderpreet Singh @Inder** (AIR 2021 SC 4017).

20) So far as the contention of the respondents that the petitioner is involved in an economic offence, which by itself is a distinct category of offences, as such, he should not be enlarged on bail, is concerned, reliance has been placed by the respondents on the judgment of the Supreme Court in **Y. S. Jagan Mohan Reddy's** case (supra). In this context it is to be noted that in the absence of any statutory bar to grant of bail in economic offence of the present nature, declining bail to the petitioner on the said ground would not be legally permissible. The Supreme Court in the case of. **Satender Kumar Antil vs Central Bureau Of Investigation,** (2022) 10 SCC 51, while analyzing the position of law as regards the grant or refusal of bail in cases involving economic offence, took note of the following observations laid down by it in **P. Chidambaram's** case (supra):

> *"23. Thus, from cumulative perusal of the judgments cited on either side including the one rendered by the Constitution Bench of this Court, it could be deduced that the basic*

jurisprudence relating to bail remains the same inasmuch as the grant of bail is the rule and refusal is the exception so as to ensure that the accused has the opportunity of securing fair trial. However, while considering the same the gravity of the offence is an aspect which is required to be kept in view by the Court. The gravity for the said purpose will have to be gathered from the facts and circumstances arising in each case. Keeping in view the consequences that would befall on the society in cases of financial irregularities, it has been held that even economic offences would fall under the category of "grave offence" and in such circumstance while considering the application for bail in such matters, the Court will have to deal with the same, being sensitive to the nature of allegation made against the accused. One of the circumstances to consider the gravity of the offence is also the term of sentence that is prescribed for the offence the accused is alleged to have committed. Such consideration with regard to the gravity of offence is a factor which is in addition to the triple test or the tripod test that would be normally applied. In that regard what is also to be kept in perspective is that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case since there is no such bar created in the relevant enactment passed by the legislature nor does the bail jurisprudence provide so. Therefore, the underlining conclusion is that irrespective of the nature and gravity of charge, the precedent of another case alone will not be the basis for either grant or refusal of bail though it may have a bearing on principle. But ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.

21) On the basis of the aforesaid ratio laid down by the Supreme Court, it was observed in **Satender Kumar**

Antil's case (supra), that all the economic offences cannot be categorized into one group and deny bail on that basis. It has been laid down that the gravity of the offence, the object of the Special Act and the attending circumstances are a few of the factors to be taken note of along with the period of sentence. Thus, consideration will have to be on case-to-case basis on the facts involved in a particular case. Merely because the petitioner in the present case is involved in an economic offence would by itself be not a reason sufficient to deny him the concession of bail. In the case of **Y. S. Jagan Mohan Reddy** (supra), which has been relied upon by the respondents, the investigation was still going on. It is in these circumstances that the Supreme Court declined to extend the concession of bail to the accused in the said case. In the present case, chargesheet has already been laid before the trial court, therefore, the ratio laid down in **Y. S. Jagan Mohan Reddy's** case (supra) cannot be invoked to deny bail to the petitioner.

22) That takes us to the contention of the respondents that antecedents of the petitioner are criminal in nature, as such, he does not deserve the concession of bail. There is no doubt to the fact that the petitioner has been involved in a number of cases relating to cheating and even the Investigating Agency, during the course of investigation, has found that the petitioner is involved in as many as three FIRs registered in the State of Tamil Nadu. All of these FIRs relate to the offence of cheating and it is also a fact that vide order dated 16.12.2021 passed by the High Court of Judicature at Madras in Crl. O.P. No.15911 of 2021, bail of the petitioner has been cancelled in a case registered under Section 109, 120-B, 420 and 409 of IPC. The question that arises for determination is as to whether registration of previous FIRs against the petitioner would, by itself, become a ground for declining the concession of bail to him in a case where chargesheet has already been laid before the trial Magistrate and the petitioner has been in incarceration for last more than one and a half years.

23) In the above context, the legal position regarding grant of bail to an accused against whom chargesheet stands already filed has been discussed by the Supreme Court in the case of **Sanjay Chandra vs. CBI,** (2021) 12 SCC 40. The following observations are relevant to the context and the same are reproduced as under:

> *"39. Coming back to the facts of the present case, both the courts have refused the request for grant of bail on two grounds: the primary ground is that the offence alleged against the accused persons is very serious involving deep-rooted planning in which, huge financial loss is caused to the State exchequer; the secondary ground is that of the possibility of the accused persons*

tampering with the witnesses. In the present case, the charge is that of cheating and dishonestly inducing delivery of property and forgery for the purpose of cheating using as genuine a forged document. The punishment for the offence is imprisonment for a term which may extend to seven years. It is, no doubt, true that the nature of the charge may be relevant, but at the same time, the punishment to which the party may be liable, if convicted, also bears upon the issue. Therefore, in determining whether to grant bail, both the seriousness of the charge and the severity of the punishment should be taken into consideration.

40. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the court, whether before or after conviction, to assure that he will submit to the jurisdiction of the court and be in attendance thereon whenever his presence is required.

xxx xxx xxx

46. We are conscious of the fact that the accused are charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged, if proved, may jeopardise the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed investigation and the charge-sheet is already filed before the Special Judge, CBI, New Delhi. Therefore, their presence in the custody may not be necessary for further investigation. We are of the view that the appellants are entitled to the grant of bail pending trial on stringent conditions in order to ally the apprehension expressed by CBI."

24) It would also be profitable to refer to the legal position relating to grant of bail discussed by the Supreme Court in the case of **Arnab Manoranjan Goswami v. State of Maharashtra,** (2021) 2 SCC 427. In the said case, the Supreme Court has, while emphasizing the importance of the principle "bail not jail" made the following observations:

> ***70.*** *More than four decades ago, in a celebrated judgment in State of Rajasthan v. Balchand , Krishna Iyer, J. pithily reminded us that the basic rule of our criminal justice system is "bail, not jail" [These words of Krishna Iyer, J. are not isolated silos in our jurisprudence, but have been consistently followed in judgments of this Court for decades. Some of these judgments are : State of U.P. v. Amarmani Tripathi and Sanjay Chandra v. CBI. The High Courts and courts in the district judiciary of India must enforce this principle in practice, and not forego that duty, leaving this Court to intervene at all times. We must in particular also emphasise the role of the district judiciary, which provides the first point of interface to the citizen. Our district judiciary is wrongly referred to as the "subordinate judiciary". It may be subordinate in hierarchy but it is not subordinate in terms of its importance in the lives of citizens or in terms of the duty to render justice to them. High Courts get burdened when courts of first instance decline to grant anticipatory bail or bail in deserving cases. This continues in the Supreme Court as well, when High Courts do not grant bail or anticipatory bail in cases falling within the parameters of the law. The consequence for those who suffer incarceration are serious. Common citizens without the means or resources to move the High Courts or this Court languish as undertrials. Courts must be alive to the situation as it prevails on the ground—in the jails and police stations where human dignity*

has no protector. As Judges, we would do well to remind ourselves that it is through the instrumentality of bail that our criminal justice system's primordial interest in preserving the presumption of innocence finds its most eloquent expression. The remedy of bail is the "solemn expression of the humaneness of the justice system" Tasked as we are with the primary responsibility of preserving the liberty of all citizens, we cannot countenance an approach that has the consequence of applying this basic rule in an inverted form. We have given expression to our anguish in a case where a citizen has approached this Court. We have done so in order to reiterate principles which must govern countless other faces whose voices should not go unheard.

25) Again, the Supreme Court in the case of **Prabhakar Tewari v. State of U.P,** (2020) 11 SCC 648, which was a case involving offence under Section302 IPC, has observed that the offence alleged is no doubt grave and serious and there are several criminal cases pending against the accused but these factors by themselves cannot be the basis for refusal of prayer for bail. It would also be appropriate to refer to the following observations of the Supreme Court in the case of **Manish Sisodia vs. Directorate of Enforcement,** 2024 SCC OnLine SC 1920:

"53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-

> *grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that "bail is rule and jail is exception."*

26) The aforesaid principles were reiterated by the Supreme Court in **Jalaluddin Khan vs. Union of India,** 2024 SCC OnLine SC 1945.

27) In the face of aforesaid legal position, it is clear that mere pendency of multiple FIRs against an accused cannot by itself be a ground to deny bail in a case where the maximum punishment for the offence for which the accused is charged extends upto seven or ten years, particularly when the chargesheet stands produced against him and he has spent more than one and a half years in jail as an undertrial. Thus, denying the concession of bail to the petitioner in a case of present nature may not be a proper exercise of discretion vested with this Court under Section 483 of BNSS as the same would militate against the principle that "bail is the rule and jail is exception".

28) Certain other factors which are required to be noticed are that while the petitioner was in custody, he has transferred an amount of Rs.35,25,000/ in the account of respondent No.2. Out of this amount, an amount of Rs.5,25,000/ has been transferred by the petitioner to the account of respondent No.2 prior to registration of the FIR, which fact has been admitted by the complainant in his complaint itself. The balance amount, out of Rs.35,25,000/, has been transferred to the account of respondent No.2 when he was brought before the Court of Chief Judicial Magistrate, Anantnag, for remand proceedings and he was made to talk to his family, whereafter the said amount came to be transferred to the account of respondent No.2. While the respondents claim that this was done by the petitioner voluntarily, the same is being disputed by the petitioner, who claim that the amount was transferred by him under pressure from the police.

29) Without going into the merits of the aforesaid aspect of the case, the fact of the matter remains that the petitioner has transferred an amount of Rs.35,25,000/ in the account of respondent No.2. It has also come to the fore that co-accused Ranjit Surya Ganeshan has transferred 70% of the amount to the account of the complainant. This fact has been noted by the learned Sessions Judge, Anantnag, in his order dated 09.07.2025 while granting bail to co-accused Ranjit Surya Ganeshan. While the petitioner claims that 70% of the amount that was allegedly paid by the complainant to him has been returned to him, the complainant has submitted that only 70% of the amount that was transferred to the account of co-accused Ranjit Surya Ganeshan has been returned by the said accused to the complainant. In any case, it means that 70% of Rs.30.00 lacs, which comes to about Rs.21.00, is admitted to have been received by the complainant from the above-named co-accused. Thus, in all, out of an amount of Rs.1.06 crores alleged to have been paid by the complainant to the petitioner, an amount of more than Rs.56.00 lacs stands refunded to the complainant. I am conscious of the fact that neither the Court nor the Investigating Agency has to act as a recovery agent of a person who has been duped of his money but then these circumstances have to be taken into account while considering a plea of bail of an accused who is alleged to have duped a person at whose behest charge of cheating has been laid against the accused.

30) Another factor which persuads this Court to extend the concession of bail to the petitioner is the fact that during his incarceration, a number of complaints have been filed by the respondent/complainant against the petitioner relating to bouncing of cheques for offences under Section 138 of Negotiable Instruments Act. In fact, demand notices have been served upon the petitioner at his jail address. If the petitioner is not enlarged on bail, it will be impossible for him to prepare his defence not only to the present case but also to the cheque bounce cases. This will seriously impede his right to fair trial guaranteed under the Constitution.

31) That takes us to the concern of the Investigating Agency with regard to availability of the petitioner for facing trial before the learned trial Magistrate. The concern of the Investigating Agency in this regard can be addressed by imposing stringent conditions of bail upon the petitioner. Refusing bail to the petitioner in a case of present nature simply because several other cases of similar nature are pending against him without there being any conviction against him, would amount to inflicting punishment upon the petitioner without trial, which is impermissible in law.

32) In view of what has been discussed hereinabove, the present application of the petitioner is allowed and he is admitted to bail subject to the following conditions:

(I) That the petitioner shall execute a bond with two solvent sureties, one of whom must be a local surety, in the sum of Rs.5.00 lacs (rupees five lacs) each to the satisfaction of the learned trial Magistrate, or in the alternative, the petitioner shall keep an amount of Rs.5.00 (rupees five lacs) in Fixed Deposit Receipt in the name of the trial court.

(II) *That the petitioner shall not, directly or indirectly, make any inducement, threat or promise, to any person acquainted with the facts of the case.*

(III) *That the petitioner shall remain present before the learned trial court on the dates fixed for the hearing of the case and if, for any unavoidable circumstances, he is unable to appear before the trial court, he shall immediately give intimation to the learned trial court as also to the prosecuting agency and his such request shall be considered in accordance with law.*

(IV) *That the petitioner shall surrender his passport, if not already surrendered, before the learned trial court and he shall not leave the limits of the country without prior permission of the learned trial court.*

(V) *That the petitioner shall furnish his mobile cellphone number and complete address of the place where he would be staying after release on bail to the learned trial court as well as to the prosecuting agency.*

(VI) *The prosecuting agency shall be at liberty to supervise the movements of the petitioner by all means permissible under law and shall also be at liberty to seek cancellation of bail of the petitioner before the learned trial court in case he violates any of the aforesaid conditions.*

33) Anything said in this order shall not be taken as an expression of opinion on merits of the case.

34) Bail application shall stand disposed of

(SANJAY DHAR)
JUDGE

Srinagar
26.11.2025
"Bhat Altaf"

*Whether the **Judgment** is speaking:* ***Yes***
*Whether the **judgment** is reportable:* ***Yes***