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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.M.C. 5062/2025 & CRL. M.A. 21936/2025

IRFAN .....Petitioner

Through: Mr. Anuj Kumar Dhaka, Adv.

versus

STATE (GOVT OF NCT DELHI) & ANR. .....Respondents

Through: Mr. Satish Kumar, APP for State

Mr. Nipu Sharma and Mr. Samir Mudgil, Advs. for R-2

CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL

ORDER (ORAL)

% 29.07.2025

CRL.M.A. 21935/2025

1. Exemption allowed subject to all just exceptions.

2. The application stands disposed of.

CRL.M.C. 5062/2025 & CRL. M.A. 21936/2025

3. The factual matrix of the case, as discerned from the record, is set out as follows:

I. The genesis of the present criminal proceedings lies in a complaint dated 23.01.2025 lodged by the complainant/respondent no. 2, Mr. Jasvinder Singh Bahra, a 63-year-old citizen.

II. The said complaint was addressed to the Cyber Police Station, South-West District, Delhi, wherein, it was alleged that the complainant had been induced, under the guise of a fraudulent online coin trading scheme, to part

with a substantial sum of Rs.33,28,196/- over a span of several months from June, 2024 to January, 2025.

III. It was averred that the complainant, having been lured by an advertisement on Facebook regarding the sale and purchase of old currency coins, entered into communication with one Mr. Sanjay Sharma. The said individual, impersonating himself and others including an RBI official and even a police officer, succeeded in extracting money from the complainant under various pretexts such as registration fees, courier charges, tax payments, and so forth.

IV. Upon receipt of the aforesaid complaint, the concerned police authorities, registered FIR No. 14/2025 on 11.03.2025 at Cyber Police Station, South-West, under Sections 318(4), 3(5), and 61(2) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter "BNS"). Pursuant thereto, the petitioner herein, Mr. Irfan, was apprehended on 21.03.2025 in connection with the aforementioned case.

V. On the 59th day from the date of arrest, i.e., 19.05.2025, the Investigating Officer (hereinafter "IO") filed charge sheet before the concerned Magistrate. The learned Chief Judicial Magistrate (hereinafter "learned CJM"), upon perusal of the charge sheet, vide order dated 19.05.2025, observed that the same was deficient in material particulars, *inter alia*, failing to incorporate the relevant sections pertaining to forgery as well as of the Information Technology Act, 2000, and lacking

investigation into the money trail. Notice was accordingly issued to the SHO and ACP concerned, and the matter was adjourned to 24.05.2025.

VI. On the subsequent date, i.e., 24.05.2025, the SHO and ACP appeared before the learned CJM and sought a period of four weeks for completing the remaining investigation and to file supplementary chargesheet.

VII. Meanwhile, the petitioner moved an application seeking statutory bail under Section 187(3)(ii) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter "BNSS") (corresponding to Section 167(2) of the Code of Criminal Procedure, 1973 (hereinafter "CrPC").

VIII. The learned CJM, vide order dated 02.06.2025, allowed the said application, granting default bail to the petitioner, taking into consideration the observations made in the order dated 19.05.2025 which recorded incomplete nature of the charge sheet and the alleged failure of the police to file a complete chargesheet within the statutory period.

IX. The complainant, Mr. Jasvinder Singh Bahra, aggrieved by the grant of default bail, preferred a criminal revision petition, being Revision Petition No. 275/2025, before the Court of the learned Additional Sessions Judge-06, South District, Saket Courts, New Delhi (hereinafter "learned ASJ").

X. The said revision petition was allowed vide order dated 26.07.2025 (hereinafter "impugned order") setting aside the order dated 02.06.2025 passed by the learned CJM.

The learned ASJ held, *inter alia*, that the charge sheet filed on 19.05.2025 was not deficient to such an extent so as to warrant default bail, and that the learned CJM had erred in concluding that the charge sheet was "half cooked" or incomplete. Consequently, the bail granted to the petitioner was cancelled, and the petitioner was directed to surrender before the learned Trial Court within a period of three days.

XI. Aggrieved thereby, the petitioner has approached this Court by way of the present petition under Section 528 of the BNSS (corresponding to Section 482 of the CrPC), seeking quashing of the impugned order dated 26.07.2025 passed by the learned ASJ.

4. Learned counsel appearing on behalf of the petitioner submitted that the impugned order has been passed without application of judicial mind and is erroneous on the following grounds:

I. The impugned order is manifestly erroneous in law and suffers from a fundamental misappreciation of the settled legal principles governing the grant and cancellation of default bail. Learned counsel submits that the statutory right to bail under Section 187(3)(ii) of the BNSS, 2023 is a statutory right and becomes indefeasible upon the failure of the investigating agency to file a complete charge sheet within the prescribed statutory period.

II. Learned counsel has drawn the attention of this Court to the fact that the petitioner herein was arrested on 21.03.2025, and the prosecution was, therefore, required

to file a complete and final report on or before the expiry of 60 days, i.e., by 20.05.2025. It is submitted that while a charge sheet was filed on 19.05.2025, the same was admittedly incomplete. The learned CJM, vide order dated 19.05.2025, had specifically recorded that the charge sheet did not contain appropriate penal sections, particularly under the Information Technology Act, 2000 and forgery provisions, and had failed to investigate the money trail. It was further observed therein that the IO had failed to clarify the shortcomings upon being queried by the court, thereby compelling the learned CJM to conclude that the charge sheet was 'half-cooked.

III. It is submitted that in view of the said judicial finding, the petitioner became entitled to statutory bail under Section 187(3)(ii) of the BNSS. It is submitted that the revision petition was allowed and the learned ASJ proceeded to cancel the bail granted to the petitioner, primarily on the ground that the charge sheet filed was sufficient for the purposes of taking cognizance. It is contended that the learned ASJ grossly erred in setting aside a judicially reasoned order of default bail.

IV. It is further submitted that the cancellation of bail once granted, particularly where it is a statutory entitlement, must be premised upon cogent and compelling considerations such as tampering with evidence, threatening of witnesses, fleeing from justice, or any post-bail abuse of liberty. In the present case, no such

ground was pleaded or made out either by the revisionist or the State, and in the absence of any such material, the impugned order cancelling default bail is unsustainable in law. Reliance has been placed on the judgment of the Hon'ble Supreme Court in ***Dolat Ram & Ors. v. State of Haryana***[1], wherein, it has been held that cancellation of bail cannot be premised merely on the ground that bail should not have been granted and must be supported by overwhelming circumstances indicating misuse of liberty.

V. The conduct of the investigating agency in the present matter, particularly its admission on 24.05.2025 that further investigation was still ongoing, supports the conclusion that the charge sheet filed was merely a ruse to defeat the petitioner's right under the law to seek default bail.

VI. In view of the aforesaid submissions, the learned counsel for the petitioner prays that the impugned order dated 26.07.2025 passed by the learned ASJ may be set aside.

5. Heard learned counsel for the petitioner.

6. Issue Notice.

7. Mr. Satish Kumar, learned APP appearing on behalf of the State and learned counsel for respondent no. 2, appearing on advance notice, accepted notice and vehemently opposed the present petition. It is submitted that the impugned order has been passed after considering the entire facts and circumstances of the case, and there is no illegality of any kind thereto. The allegations against the petitioner are grave in

[1] **(1995) 1 SCC 349**

nature, and has PAN India affect, thus, the investigation is taking substantial time, requiring filing of supplementary chargesheet. It is submitted that mere assertion of filing of supplementary chargesheet cannot amount to filing of incomplete chargesheet, as rightly observed and held by the learned ASJ. Thus, it is prayed that the present petition may be dismissed.

8. Upon a careful consideration of the rival submissions advanced by the parties and upon meticulous perusal of the record, including the FIR dated 11.03.2025, the charge sheet filed on 19.05.2025, the order passed by the learned CJM dated 19.05.2025, the bail order dated 02.06.2025, and the impugned order dated 26.07.2025 passed by the learned ASJ, this Court finds no merit in the challenge laid to the impugned order, for the reasons delineated hereinbelow.

8.1 The central question that arises for consideration in the present matter is whether the charge sheet filed on 19.05.2025, was incomplete in the eyes of law, thereby, entitling the petitioner to default bail under Section 187(3)(ii) of the BNSS, 2023 (corresponding Section 167(2) of the CrPC), or whether the said charge sheet was sufficient in material particulars so as to defeat the statutory claim for default bail.

8.2 It is by now well settled that the right to default bail is not absolute but contingent upon the failure of the investigating agency to file a charge sheet in terms of Section 193 of the BNSS (corresponding Section 173(2) of the CrPC) within the stipulated period.

8.3 The Hon'ble Supreme Court has, in a catena of judgments,

held that once a final report under Section 193 of the BNSS (corresponding Section 173(2) of the CrPC) is filed within the prescribed period, the accused cannot claim statutory default bail on the ground that further investigation under Section 193 of the BNSS (corresponding Section 173(8) of the CrPC) is pending or that certain supplementary documents are yet to be filed. In this regard, the Hon'ble Supreme Court in ***Central Bureau of Investigation v. Kapil Wadhawan***[2], has held in unequivocal terms that:

> "23. The benefit of proviso appended to sub-section (2) of Section 167 of the Code would be available to the offender only when a charge-sheet is not filed and the investigation is kept pending against him. Once however, a charge-sheet is filed, the said right ceases. It may be noted that the right of the investigating officer to pray for further investigation in terms of sub-section (8) of Section 173 is not taken away only because a charge-sheet is filed under sub-section (2) thereof against the accused. Though ordinarily all documents relied upon by the prosecution should accompany the charge-sheet, nonetheless for some reasons, if all the documents are not filed along with the charge-sheet, that reason by itself would not invalidate or vitiate the charge-sheet. It is also well settled that the court takes cognizance of the offence and not the offender. Once from the material produced along with the charge-sheet, the court is satisfied about the commission of an offence and takes cognizance of the offence allegedly committed by the accused, it is immaterial whether the further investigation in terms of Section 173(8) is pending or not. The pendency of the further investigation qua the other accused or for production of some documents not available at the time of filing of charge-sheet would neither vitiate the charge-sheet, nor would it entitle the accused to claim right to get default bail on the ground that the charge-sheet was an incomplete charge-sheet or that the charge-sheet was not filed in terms of Section 173(2)CrPC."

8.4 This Court has also referred to the decision of the Hon'ble Supreme Court, passed in the judgment of ***Ritu Chhabaria***

[2] **(2024) 3 SCC 734**

v. Union of India[3]. Relevant paragraphs of the same are as under:

> "24. It is also to be noted that as per the scheme of Cr. P.C., an investigation of a cognizable case commences with the recording of an FIR under Section 154 Cr. P.C. If a person is arrested and the investigation of the case cannot be completed within 24 hours, he has to be produced before the magistrate to seek his remand under Section 167(2) of the Cr. P.C. during continued investigation. There is a statutory time frame then prescribed for remand of the accused for the purposes of investigation, however, the same cannot extend beyond 90 days, as provided under Section 167(2)(a)(i) in cases where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years and 60 days, as provided under Section 167(2)(a)(ii), where the investigation relates to any other offence. The relevant section further provides that on expiry of the period of 90 days or 60 days, as the case may be, the accused has a right to be released on default bail in case he is prepared to and furnishes bail.
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> 25. This right of statutory bail, however, is extinguished, if the charge sheet is filed within the stipulated period. The question of resorting to a supplementary chargesheet u/s 173(8) of the Cr. P.C. only arises after the main chargesheet has been filed, and as such, a supplementary chargesheet, wherein it is explicitly stated that the investigation is still pending, cannot under any circumstance, be used to scuttle the right of default bail, for then, the entire purpose of default bail is defeated, and the filing of a chargesheet or a supplementary chargesheet becomes a mere formality, and a tool, to ensue that the right of default bail is scuttled.
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> 26. It is thus axiomatic that first investigation is to be completed, and only then can a chargesheet or a complaint be filed within the stipulated period, and failure to do so would trigger the statutory right of default bail under Section 167(2) of Cr. P.C. In the case of Union Of India v. Thamisharasi9, which was a case under the Narcotic Drugs and Psychotropic Substances Act, 1985, on finding that the investigation was not complete and a chargesheet was not filed within the prescribed period, denial of default bail was held to be in violation of Article 21 of the Constitution of India, and it was further held that even the twin limitation on grant of bail would not apply.
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> 27. Further, in the case of Ashok Munilal Jain v. Assistant

[3] **2023 SCC OnLine SC 502**

> Director, Directorate of Enforcement10, it was held that the right of default bail under section 167(2) CrPC was held to be an indefeasible right of the accused even in matters under PMLA.
> 28. Therefore, in light of the abovementioned discussions, it can be seen that the practice of filing preliminary reports before the enactment of the present CrPC has now taken the form of filing chargesheets without actually completing the investigation, only to scuttle the right of default bail. If we were to hold that chargesheets can be filed without completing the investigation, and the same can be used for prolonging remand, it would in effect negate the purpose of introducing section 167(2) of the CrPC and ensure that the fundamental rights guaranteed to accused persons is violated."

8.5 Therefore, it is made out that the right to default bail arises only where no final report as contemplated under Section 193 of the BNSS (corresponding Section 173(2) of the CrPC) is filed within the stipulated period. However, once a report, complete in material particulars and disclosing commission of a cognizable offence, is filed before the Magistrate, the right to default bail is not available to the accused. What constitutes a complete charge sheet is not dependent upon the subjective satisfaction of the accused but on whether the Magistrate is in a position to take cognizance of the offences disclosed from the material placed on record. The same is also in line with the observations made by the Hon'ble Supreme Court in ***Dablu Kujur v. State of Jharkhand***[4]. In the said judgment, the following was observed:

> "14. It may be noted that though there are various reports required to be submitted by the police in charge of the police station before, during and after the investigation as

[4] **(2024) 6 SCC 758**

contemplated in Chapter XII CrPC, it is only the report forwarded by the police officer to the Magistrate under sub-section (2) of Section 173CrPC that can form the basis for the competent court for taking cognizance thereupon. A charge-sheet is nothing but a final report of the police officer under Section 173(2)CrPC It is an opinion or intimation of the investigating officer to the court concerned that on the material collected during the course of investigation, an offence appears to have been committed by the particular person or persons, or that no offence appears to have been committed.

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16. The issues with regard to the compliance of Section 173(2)CrPC, may also arise, when the investigating officer submits police report only qua some of the persons-accused named in the FIR, keeping open the investigation qua the other persons-accused, or when all the documents as required under Section 173(5) are not submitted. In such a situation, the question that is often posed before the court is whether such a police report could be said to have been submitted in compliance with sub-section (2) of Section 173CrPC.

17. In this regard, it may be noted that in Satya Narain Musadi v. State of Bihar [Satya Narain Musadi v. State of Bihar, (1980) 3 SCC 152 : 1980 SCC (Cri) 660] , this Court has observed that statutory requirement of the report under Section 173(2) would be complied with if various details prescribed therein are included in the report. The report is complete if it is accompanied with all the documents and statements of witnesses as required by Section 175(5). In Dinesh Dalmia v. CBI [Dinesh Dalmia v. CBI, (2007) 8 SCC 770 : (2008) 1 SCC (Cri) 36] , however, it has been held that even if all the documents are not filed, by reason thereof the submission of the charge-sheet itself would not be vitiated in law.

18. Such issues often arise when the accused would make his claim for default bail under Section 167(2)CrPC and contend that all the documents having not been submitted as required under Section 173(5), or the investigation qua some of the persons having been kept open while submitting police report under Section 173(2), the requirements under Section 173(2) could not be said to have been complied with. In this regard, this Court recently held in CBI v. Kapil Wadhawan…."

8.6 Applying the aforesaid principles to the facts of the present case, it is to be noted that the IO filed a charge sheet on 19.05.2025, detailing therein the role of the accused,

petitioner herein, in defrauding the complainant/respondent no. 2, Mr. Jasvinder Singh Bahra, to the tune of Rs.33,28,196/- by impersonation and deceit.

8.7 The charge sheet enclosed a list of witnesses, details of the bank transactions, mobile numbers allegedly used, digital evidence, and narration of the sequence of events. It is evident that the material filed was sufficient to enable the Court concerned to take cognizance of the offence.

8.8 Significantly, on the date of filing of the charge sheet, i.e., 19.05.2025, the learned CJM observed certain shortcomings, particularly the absence of relevant penal sections under the Information Technology Act, 2000 and lack of clarity regarding the money trail.

8.9 However, the proceedings on 19.05.2025, as recorded, reveal that the learned counsel for the petitioner was present and did not raise any objection to the nature or content of the charge sheet at that stage. The silence of the petitioner at that juncture reinforces the conclusion that the charge sheet was accepted as a final report under Section 193 of the BNSS and was not disputed to be incomplete in material particulars.

8.10 Moreover, as observed by the learned ASJ in the impugned order, the learned CJM is not bound by the sections invoked by the police in the charge sheet, and it is always open to the court to take cognizance of the offences that are disclosed from the facts presented therein.

8.11 A joint reading of the orders dated 19.05.2025 and

24.05.2025 clearly establishes the fact that the cognizance of the offence was taken by the learned CJM vide order dated 19.05.2025. Therefore, to hold that there was no chargesheet which entitles the accused for default bail is incorrect.

8.12 The contention of the petitioner that the filing of a supplementary charge sheet was contemplated and that investigation was still ongoing does not *per se* render the charge sheet incomplete. In the present case, the learned ASJ has rightly concluded, upon a careful appreciation of the material on record, that the charge sheet filed on 19.05.2025 was not so deficient so as to defeat the jurisdiction of the Magistrate to take cognizance. The term "incomplete charge sheet" as relied upon by the petitioner is without statutory recognition or precedent, and it is observed by this Court that substantial investigation had already been completed, including tracing of bank transactions, identification of mobile numbers, arrest of the accused, and seizure of relevant devices.

8.13 Further, the learned ASJ has rightly taken note of the fact that the charge sheet was sufficient in disclosing the offence and the material placed before the court enabled the Magistrate to proceed with the matter. The fact that supplementary evidence, such as forensic voice samples or additional documents, may be filed subsequently does not in any manner impair the legal efficacy of the charge sheet submitted within the statutory period.

9. In light of the settled position of law, and in view of the factual

circumstances obtaining in the present case, this Court is of the considered opinion that the petitioner was not entitled to claim default bail, as a charge sheet, complete in terms of Section 187 of the BNSS, had already been filed on 19.05.2025. The learned CJM erred in granting default bail by treating the charge sheet as "half-cooked", despite the availability of sufficient material to take cognizance of the offence. The learned ASJ, therefore, rightly exercised revisional jurisdiction in setting aside the bail order dated 02.06.2025 and cancelling the bail granted to the petitioner.

10. Accordingly, the impugned order dated 26.07.2025 passed by the learned Additional Sessions Judge-06, South District, Saket Courts, New Delhi in Criminal Revision Petition No. 275/2025 is, hereby, upheld.

11. The present petition seeking quashing of the impugned order is devoid of merit and is accordingly dismissed. Pending applications, if any, do not survive and stands dismissed.

AJAY DIGPAUL, J

JULY 29, 2025
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