6 BAIL MATTERS 2716/2026
STATE OF DELHI VS. NAMITA GUPTA
FIR No. 135/2026
PS (CYBER CELL SOUTH-WEST)

03.11.2026

Fresh anticipatory bail application u/s 482 BNSS for seeking anticipatory bail filed on behalf of accused/applicant received. It be checked and registered.

Present : Sh. Santosh Kumar, Ld. (Sub) Spl. PP for the State.
Sh. Jayant Tewathia, Ld. Counsel for accused/ applicant.
IO HC Vijay Pal in person.

Reply has been filed by the IO. Same is taken on record.

Arguments on anticipatory bail application of accused/applicant heard.

Put up for orders at 02:30 PM.

(Prabh Deep Kaur)
Bail Roster Judge/ASJ (POCSO) -06/PHC/NDD
03.11.2026

At 03:30 PM.

Present : Sh. Santosh Kumar, Ld. (Sub) Spl. PP for the State.
Sh. Jayant Tewathia, Ld. Counsel for accused/ applicant.

ORDER

1. This is bail application u/s 482 of BNSS, 2023 for grant of anticipatory bail filed by **applicant/accused Namita Gupta d/o Sh. Narendra.**

2. Ld. Counsel for the Applicant submitted that the Applicant is innocent and has been falsely implicated in the present case. She is neither a member of any organised cyber fraud syndicate nor involved in the alleged conspiracy. It is contended that her lawful assertion of legal and constitutional rights on

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24.10.2026 has been misconstrued and used as a pretext for registration of the FIR. The conduct of police officials in visiting her residence in plain clothes, attempting to seize her personal device without a warrant and remaining there for approximately eight hours amounts to harassment and raises serious concerns regarding violation of her fundamental rights under Articles 14 and 21 of the Constitution. The Applicant's contemporaneous calls to emergency helplines 112 and 1930 substantiate her version. It is further submitted that the prosecution case is primarily based on electronic and banking records, including bank statements and NCRP portal records, which are already preserved with the concerned banks and government authorities. The Applicant is willing to furnish her bank statements and submit her mobile phone in a sealed cover for targeted forensic examination of relevant banking applications and communication logs, subject to adequate safeguards to protect her personal photographs and private data. Thus, custodial interrogation is neither necessary nor warranted. Ld. Counsel further submitted that there is no cogent material establishing the Applicant's knowledge, intention or active participation in the alleged fraud. Mere utilisation of her bank account, without evidence of conscious involvement, does not establish criminal culpability. Rather, the possibility of her account having been misused by sophisticated cyber criminals without her knowledge cannot be ruled out. The FIR does not disclose any direct communication, connection or conspiracy between the Applicant and the principal perpetrators. Her alleged role is confined to the last stage of the money trail and is, at best, peripheral. The Applicant is a permanent resident of Delhi, has deep familial and societal roots and undertakes to join the

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investigation as and when directed by the Investigating Officer or this Hon'ble Court. She is willing to comply with all conditions imposed under Section 482 BNSS, 2023. There is no likelihood of her absconding or tampering with evidence, particularly when the relevant documentary and electronic records are already preserved by third-party institutions.

It is also submitted that the Applicant is a woman and the sole caregiver of her 75-year-old bedridden father. Her arrest would cause grave hardship to her dependent father, besides causing irreparable damage to her dignity, reputation and personal liberty. The apprehension of arrest, in the absence of any demonstrated necessity for custodial interrogation, renders the proposed arrest disproportionate and unjustified. Ld. Counsel placed reliance upon the settled principle laid down by the Hon'ble Supreme Court in *State of Rajasthan v. Balchand alias Baliya*, (1977) 4 SCC 308, that "Bail is the rule and jail is an exception." It was argued that pre-trial incarceration cannot be employed as a punitive measure, particularly where the investigation is substantially documentary and the Applicant is willing to cooperate. The presumption of innocence and the constitutional protection of personal liberty under Article 21 warrant protection against unnecessary arrest. It is lastly submitted that the FIR has been registered at P.S. Cyber South West District, New Delhi, and the Applicant resides within the territorial jurisdiction of this Hon'ble Court. The present application under Section 482 BNSS, 2023, is therefore maintainable before this Court. The earlier application was not adjudicated on merits, and the present application is being filed before the competent court in view of the Investigating Agency's own submission. The Applicant has a genuine and reasonable

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apprehension of immediate arrest owing to the alleged vindictive conduct of the police officials. Accordingly, it is prayed that anticipatory bail be granted to the Applicant, Namita Gupta, in the event of her arrest in FIR No. 0135/2026, registered under Sections 112(2)/318(4)/317(5)/61(2) of the BNS, 2023, at P.S. Cyber South West District, New Delhi, and that the Investigating Officer/Arresting Officer be directed to release her on bail upon furnishing the requisite personal bond and surety, subject to such conditions as this Hon'ble Court may deem fit.

3. Reply has been filed by the Investigating Officer. Ld. APP for the State has opposed the bail application, relying upon the submissions made in the reply, contending that custodial interrogation of the Applicant is necessary for recovery of her mobile phone, bank kit, cheque books and ATM card, as well as for tracing the money trail of the cheated amount allegedly withdrawn through cheques. It is further submitted that the Applicant's bank account was used as a mule account and is linked to two other cyber fraud complaints, indicating her alleged involvement in an organised cybercrime syndicate operating in South West District. It is contended that the Applicant has been non-cooperative, has obstructed the investigation, refused to comply with notices and called the police emergency helpline 112 during the investigation. The State further apprehends that, if granted anticipatory bail, the Applicant may destroy evidence, conceal the identities of the end beneficiaries and accomplices, and hamper the investigation. Her custodial interrogation is, therefore, stated to be necessary to confront her with the complainants and relevant bank statements and to ascertain the complete money trail.

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4. Arguments have been heard. Record has been perused.

5. The gist of the prosecution case is that the present FIR was registered at PS Cyber, South West District, pursuant to a preliminary enquiry vide GD No. 23A dated 24.10.2026. During analysis of mule account data available on the NCRP/14C Portal, one suspicious bank account bearing No. 107810011051285, maintained with Union Bank of India in the name of the Applicant/accused Namita Gupta, came to light. The said account is allegedly linked with two NCRP complaints bearing Nos. 31908260182869 (Trading Fraud) and 32708260086672 (Digital Arrest). As per the prosecution, the account figured as a Layer-3 account and was allegedly used for withdrawal of cheated money through cheques, indicating its suspected involvement in an organised cyber fraud syndicate.

On 24.10.2026, HC ViJay Pal No. 682/SW along with HC Manender No. 766/SW and W/HC Sunita Negi No. 674/SW visited the house of accused for verification vide GD No. 23A. Accused was found present but did not open gate, talked from inside. Despite showing ID cards, she refused to disclose source of money and refused to join enquiry. She refused to receive notice to join enquiry and called 112. She insisted for FIR Copy and Notice U/s 35(3) BNSS. She refused to show mobile phone. Process continued for 6 hours. GD No. 0058A dated 24.10.2026 at 23:46:50 lodged.

On 29/10/2026, IO issued Notice dated 29/10/2026 U/s 35(3) BNSS directing accused to appear on 29/10/2026 at 01:00 PM at PS Cyber South West, Bhikaji Cama Place. HC Vijay Pal No. 682/SW along with staff went to her house at H.No. 1842, Sec-B, Pocket-1, Vasant Kunj, South West Delhi for service of notice. Accused was present inside house but refused to open gate and

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refused to receive notice. Despite sincere efforts, she did not cooperate. Hence, notice was affixed/pasted at her house as per procedure. Thus, the accused has deliberately not joined investigation till date and has refused to receive notice dated 29/10/2026 which was affixed at her house today.

6. Admittedly, police officials have visited the house of accused/applicant on 24.10.2026 and the accused/applicant has not joined the investigation. The apprehension of the accused/applicant is that on 24.10.2026, police officials visited the house of applicant in plain clothes and tried to seize the mobile phone of the applicant without a warrant and same is gross harassment. The apprehension of accused/applicant even if considered as reasonable, even then there is no reason why accused/applicant has not joined the investigation on 29.10.2026 subsequent to service of second notice.

During arguments, IO has submitted that generally in cyber fraud cases, when the mobile phone or other personal device of any accused is to be seized, elaborate time cannot be given as accused may use the time to erase the valuable data and may also alert the other persons involved in the chain because invariably in cyber fraud cases the gang is operating through mobile network only and some times otherwise they are not even acquainted with each other. The explanation given by the IO concerned seems probable and justified.

7. Admittedly, the accused/applicant was first approached by the concerned police official on 24.10.2026 and accused/applicant has not joined the investigation till date nor has even surrendered her mobile phone to the IO concerned.

8. The bank account maintained in her name has allegedly surfaced as a Layer-3 mule account linked with two separate cyber

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fraud complaints pertaining to trading fraud and digital arrest. The allegations require thorough investigation to ascertain the Applicant's role in the alleged transactions, the manner in which the cheated amount was withdrawn through cheques and the identity of the ultimate beneficiaries.

9. Further, as per the reply filed by the Investigating Officer, despite visits by the police officials and issuance of notice under Section 35(3) BNSS, the Applicant has allegedly failed to join the investigation and has not cooperated with the Investigating Agency. The recovery of her mobile phone, bank kit, cheque books and ATM card, along with the need to confront her with the relevant bank statements and ascertain the complete money trail, are stated to be necessary investigative steps. At this stage, the possibility of further custodial interrogation cannot be ruled out.

The Applicant's willingness to submit her mobile phone for limited forensic examination, subject to conditions, does not sufficiently address all the investigative requirements highlighted by the Investigating Officer. The fact that the Applicant is a woman and the sole caregiver of her 75-year-old bedridden father has also been considered. However, the said humanitarian consideration has to be balanced against the nature of allegations, the alleged involvement of her bank account in multiple cyber fraud complaints and the requirements of an effective investigation. The settled principle that bail is the rule and jail is an exception does not confer an absolute right to anticipatory bail, and the relief has to be considered in the facts and circumstances of each case.

10. In view of the aforesaid facts and circumstances and the plea of the IO that custodial interrogation is required to recover mobile

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phone, bank kit, cheque book, ATM and to trace money trail of the cheated amount withdrawn via cheque, this Court is not inclined to extend the extraordinary protection of anticipatory bail to the Applicant at this stage. Accordingly, the application under Section 482 BNSS, 2023, filed by Applicant Namita Gupta, stands dismissed.

It is clarified that the observations made hereinabove are limited to the adjudication of the present application and shall not tantamount to an expression of opinion on the merits of the case.

Copy of order be given dasti as prayed for.

(Prabh Deep Kaur)
Bail Roster Judge/ASJ (POCSO) -06/PHC/NDD
03.11.2026

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