

State Of West Bengal vs State Of Nct Of Delhi & Anr on 25 February, 2025

Author: Sanjeev Narula

Bench: Sanjeev Narula

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(CRL) 673/2025
STATE OF WEST BENGAL

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STATE OF NCT OF DELHI & ANR.

Through: Mr. Kirti Uppal,
with Mr. Arun Kh
Sharma, Ms. Sris
Harshit Luthra,

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA
ORDER

% 25.02.2025 CRL.M.A. 6286/2025 (Exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of. W.P.(CRL) 673/2025 & CRL.M.A. 6285/2025 (for stay)
4. The present writ petition filed under Article 226 of the Constitution of India, 1950 read with Section 482 of the Code of Criminal Procedure, 1973 "CrPC"

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is directed against order dated 24th February, 2025 passed by the Duty Judicial Magistrate, First Class, Shahdara, Karkardooma Courts, Delhi, declining the request made by the Petitioner/State of West Bengal for transit remand of Respondent No. 2. Instead, the Trial Court granted Respondent No. 2 interim/transit bail, thereby allowing him to seek appropriate legal recourse, including interim protection, before the competent jurisdictional court in relation to the FIR in question.

5. Briefly stated, the facts of the case are as follows:

5.1 The impugned FIR, being FIR No. 60/2024 under Sections 66C/66D of the Information Technology Act, 2000, read with Sections 120-B, 170, 384, 419, 420, 465, 467, and 471 of the Indian Penal Code, 1860 was registered at Cyber Police Station, Kolkata on 17th June, 2024. 5.2 Pursuant to investigation in the aforesaid case, the Petitioner apprehended Respondent No. 2 on 23rd February, 2025 following a search at his residence, where electronic devices and various incriminating documents were seized.

5.3 After serving the grounds of arrest on Respondent No. 2, the Petitioner produced him before the Duty Magistrate, and applied for issuance of a five- days transit remand. Respondent No. 2, on the other hand, filed another application before the Duty Magistrate seeking bail. The aforementioned applications were heard and decided through the impugned order, which reads as follows:

"Another application for bail also filed on behalf of accused. That the applicant has been apprehended by police officials of PS Cyber Kolkata on 23.02.2025 pursuant of F I R c a s e n o . 6 0 / 2 0 2 4 u / s 6 6 C / 6 6 D I T A c t r / w 1 2 0 - B / 170/384/419/420/465/467/471 IPC dated 17.06.2024, and thereafter, a raid was conducted at the house of the applicant / accused Yogesh Dua. It is submitted by the Investigating Agency that during the search conducted at the residence of the accused in presence of three independent witnesses, several electronic gazettes, banking This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 25/02/2025 at 22:38:34 documents and other items were found and were seized under proper seizure list in presence of witnesses. It is further submitted that misappropriated money is required to be recovered from different hide outs and the Investigating Agency is trying to break the money trail.

The offence has taken place outside Delhi and thus the applicant may appear before the court concerned in Kolkata an apply for bail and the present bail application is not maintainable before this Court.

On the contrary, it is submitted by Ld. Counsel for accused that after the registration of the FIR, eight accused persons were arrested from Kolkata and Assam and

recoveries were also effected from them. It is submitted that the applicant has no concern from the persons arrested by the police. It is submitted that one employee of applicant / accused namely Onkar Singh was arrested by the police and upon his disclosure statement, the present applicant / accused has been apprehended by the Investigating Agency. When notice was issued to the applicant / accused to join the investigation in the present case, he could not do so as mother of accused has suffered from brain stroke. Thereafter, applicant/ accused was arrested on 23.02.2025.

It is to be noted that accused no.10 Onkar Singh on whose disclosure statement, applicant / accused was apprehended is already on bail. All the recoveries have already been effected by the Investigating Agency and seizure list had been prepared accordingly. Thus, no purpose would be served by taking the accused to Kolkata on transit remand.

Further, it is submitted by the Investigating Agency that his brother Bharat Bhushan is also involved in the present FIR case. However, no document whatsoever is placed on the record to show the alleged link.

The perusal of FIR shows that the victim Debeshi Datta was duped on Rs. 4 7 lacs when she had transferred the said amount in different bank accounts. However, it is not shown as to how the said transactions are linked to applicant/accused Yogesh Dua. Thus, prima facie the Investigating Agencies have failed to show why the applicant / accused should be taken to Kolkata and for what investigation he is required in the present FIR. No cogent evidence is brought on record as to why the transit remand should be granted to the Investigating Agencies.

Thus, this Court deems it fit to grant seven days interim bail to applicant/accused Yogesh Dua, with rider that he shall make himself available to the Investigating Agency at all times as & when required to bring out true facts. In view of the above, the instant bail application is allowed. Applicant / accused Yogesh Dua is granted seven days interim bail on executing bail bond to the sum of Rs.1,00,000/- with two sureties of like amount each. This protection of interim bail is granted for a period of seven days only from today to enable the applicant to approach the competent court for seeking appropriate relief in This is a digitally signed order.

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In case, applicant fails to appear within the time stipulated, no further time would be extended and the interim protection shall stand automatically vacated.

It is made clear that observations made hereinabove shall have no bearing on the merits of the case.

Both the applications stand disposed off accordingly. Since accused has not furnished the bail bonds I surety bonds, applicant/accused be sent to JC and be produced before the Court concerned/ Ld. Duty JMFC, SHD on 25.02.2025.

Copy of this order be given dasti."

6. While Respondent No. 2 was granted interim bail, he was unable to furnish the requisite bail bonds. Consequently, he was taken into judicial custody and directed to be produced before the concerned Court/Duty JMFC today. However, since the concerned court has yet to release Respondent No. 2, the Petitioner made a special mention before Hon'ble the Chief Justice, seeking urgent listing of the present matter. Upon consideration of the request, the instant petition has been placed before this Court in the supplementary list. Respondent No. 2 is duly represented by Mr. Kirti Uppal, Senior Advocate, along with Mr. Arun Khatri and Mr. Ravi Sharma.

7. At the outset, Mr. Tanveer Ahmed Mir, Senior Counsel for the Petitioner, informs this Court that the concerned court has been duly notified of the urgent listing of the matter and is awaiting this Court's decision. He underscores that unless an immediate interim order is passed, the present petition may be rendered infructuous. Furthermore, he raises serious apprehensions regarding the potential risks posed by Respondent No. 2, including the likelihood of absconding, tampering with evidence, and influencing witnesses. In light of these concerns, he urges that the custody of Respondent No. 2 be retained to prevent any obstruction in the ongoing investigation.

8. On the other hand, Mr. Kirti Uppal, Senior Counsel for Respondent This is a digitally signed order.

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9. Issue notice. Counsel for Respondent No. 2 accept notice. Let a reply be filed within a period of two days from today. Rejoinder thereto, if any, be filed on or before the next date of hearing.

10. The Court has heard the counsel for both parties in detail, on the issue of interim relief. The present case emanates from a complaint registered by one Ms. Debeshi Datta/ Complainant, on 17th June, 2024 alleging that she had been defrauded of an amount of INR 47 lakhs through five different transactions under the pretext of digital arrest. The Petitioner has alleged that the amount from the Complainant's account was transferred into the following accounts: (i) Valley Aluminium; (ii) M/s Bhat Gas House; and (iii) Brainburst Robotics and others.

11. The investigation has revealed that that the credential documents linked to the aforementioned accounts were transmitted to one Onkar Singh, who is alleged to be an associate of Respondent No. 2. The case diary, placed before this Court, contains screenshots of messages exchanged between the WhatsApp accounts of Respondent No. 2 and Onkar Singh. Upon a prima facie examination, these messages appear to have been exchanged in a coded manner, raising concerns regarding their potential relevance to the alleged offence. In this context, the Petitioner has requested for custodial interrogation and grant of the transit remand of Respondent No. 2, to enable them to apply before the concerned Judicial Magistrate for appropriate orders for police remand.

12. Upon reviewing the material presented, this Court is of the prima facie opinion that the Petitioner's request for transit remand of Respondent This is a digitally signed order.

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However, it is not shown as to how the said transactions are linked to applicant/accused Yogesh Dua. Thus, prima facie the Investigating Agencies have failed to show why the applicant / accused should be taken to Kolkata and for what investigation he is required in the present FIR. No cogent evidence is brought on record as to why the transit remand should be granted to the Investigating Agencies."

13. Prima facie, the observations made in the impugned order do not withstand scrutiny in light of the case diary placed before this Court. Moreover, the material on record, including the digital communication retrieved, suggests that Respondent No. 2 played an active role in the commission of the offence. The apprehension that he may abscond or tamper with evidence, if released, is neither unfounded nor speculative, but is a reasonable inference drawn from the case diary. Accordingly, this Court finds that the reasoning in the impugned order, particularly regarding the alleged lack of cogent evidence, is legally untenable. The Petitioner has, prima facie, established substantial grounds warranting the grant of transit remand to facilitate further investigation before the appropriate jurisdictional court.

14. For the foregoing reasons, the directions issued in the impugned order dated 24th February, 2025, for release of Respondent No.2 shall remain stayed until the next date of hearing.

15. Re-notify on 27th February, 2025.

16. Dasti under the signatures of the Court Master.

SANJEEV NARULA, J FEBRUARY 25, 2025/ab This is a digitally signed order.

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