



2026:CGHC:15513

1



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HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No.234 of 2026

Md. Rafiq S/o Sheikh Rehman Aged About 32 Years R/o Raipur
Naka, Near K.G.N. Masjid Ward No.47, District And Tehsil Durg,
Chhattisgarh **... Appellant**

versus

State Of Chhattisgarh Through S.H.O. Police Station Mohan
Nagar, Durg, Chhattisgarh **... Respondent**

For Appellant :Shri Sudhanshu Kumar Singh, Advocate.
For Respondent/State :Shri Aman Tamrakar, PL.

Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

06.04.2026

1. The present Criminal Appeal under Section 415(2) of Bhartiya
Nagrik Suraksha Sanhita, 2023 has been preferred by Appellant
against the judgment of conviction and order of sentence dated



07.01.2026 passed by the learned 1st Additional Sessions Judge. Durg (CG) in Sessions Trial No.287/2025, whereby the Appellant has been convicted and sentenced as under:

Conviction	:	Sentence
U/s 317(2) of BNS		RI for 3 years with fine of Rs.13,000/-, in default of payment of fine, additional RI for 3 months.
U/s 61(2) of BNS	:	RI for 3 years with fine of Rs.13,000/-, in default of payment of fine, additional RI for 3 months.

2. The prosecution case, in brief, is that the Sub-Inspector of Police Station Mohan Nagar received information through the Samanvay Portal of the Ministry of Home Affairs regarding suspicious mule bank accounts. Pursuant thereto, account No. 1654000100274907 maintained at Punjab National Bank, Station Road, Durg was examined and it was found that on 15.08.2024, amounts of Rs.25,000/- each were fraudulently obtained from two persons and credited into the said account. On verification, the account holder was identified as the present Appellant who, upon notice and interrogation, disclosed that co-accused Sanu Khan was involved in the cyber fraud and that his passbook and ATM card were in the latter's possession and further stated that his account was used for such transactions in lieu of Rs.5,000/-. It is alleged that the accused persons, in furtherance of a criminal conspiracy and with knowledge of the fraudulent nature of the transactions, used the said account to receive proceeds of cyber fraud, thereby



deriving unlawful gain. Accordingly, offences under Sections 317(2), 317(4), 318(4), and 61(2) of the Bharatiya Nyaya Sanhita, 2023 were registered against the present Appellant and the matter was investigated.

3. The prosecution has in all examined 4 witnesses and exhibited 12 documents to prove its case. The accused was examined under Section 313 CrPC wherein he pleaded innocence and false implication. After conclusion of trial, considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, convicted and sentenced the Appellant, as mentioned above.

4. At this stage, learned Counsel for the Appellant submits that he does not challenge the finding of conviction and confines his argument to the sentence part only, which according to him is on higher side. He further submits that the occurrence is related to the year 2025 and the accused Appellant has so far suffered a sentence of about 10 months and 12 days out of total sentence of 3 years' RI. He further submits that there are 4 prosecution witnesses, including witnesses to the seizure and memorandum, the fine amount has already been deposited, only one mobile phone has been seized from the possession of the Appellant and the sole allegation against him is that his bank account was credited with Rs.25,000/- on two occasions. He lastly submits that



the Appellant is presently in jail and the sentence awarded to him for the aforesaid offence may be reduced to the period already undergone by him.

5. Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellant. He, however, submits that there are no previous criminal antecedents against the present Appellant and moreover, fine amount has also been deposited.

6. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

7. Having gone through the material available on record and the statements of witnesses, this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the Appellant for the offence mentioned above, which is hereby affirmed.

8. As regards sentence, in **Mohammad Giasuddin v. State of Andhra Pradesh** reported in **(1977) 3 SCC 287**, Hon'ble Supreme Court has observed that if you are to punish a man retributively, you must injure him. If you are to reform him, you must improve



him and, men are not improved by injuries and held in para-9 as follows:

“9. Western jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streetfield : “If you are going to have anything to do with the criminal Courts, you should see for yourself the conditions under which prisoners serve their sentences.”



9. Applying the ratio laid down in *Mohammad Giasuddin* (supra) and keeping in view the fact that the Appellant was charged under Sections 317(2), 317(3), 318(4) and 61(2) of the Bharatiya Nyaya Sanhita, 2023, out of which the trial Court acquitted him of the remaining charges and convicted and sentenced him under Sections 317(2) and 61(2) of the BNS to undergo rigorous imprisonment for three years with a fine of Rs.13,000/- and further considering that he has already undergone about 10 months and 12 days of incarceration, he is a poor auto driver having studied up to the 8th standard with no previous criminal antecedents, the incident pertains to the year 2025 and the co-accused is absconding, this Court is of the opinion that the ends of justice would be adequately met if, while maintaining the conviction of the Appellant, the substantive sentence of imprisonment awarded to him is reduced to the period already undergone.

10. Consequently, the Appeal is **partly allowed**. The conviction of the Appellant under the aforesaid provision is affirmed, but the sentence of imprisonment is reduced to the period already undergone. The sentence of fine shall remain in tact.

11. In the result, the Appeal is **allowed in part** to the extent indicated hereinabove.



2026:CGHC:15513

7

12. The Appellant is in jail. He shall be released from jail forthwith, if not required in any other offence.

13. Let a certified copy of this judgment along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the Appellant is undergoing jail sentence.

Sd/-

(Sanjay Kumar Jaiswal)
Judge

Priya