



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

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Reserved on : 13.09.2023

Pronounced on : 29.11.2023

+ **BAIL APPLN. 1556/2023**

CHRISTIAN IFEANYICHUKWU @ DURU CHRISTIAN

..... Petitioner

Through: Mr. Sumit Sarna, Advocate.

versus

CENTRAL BUREAU OF INVESTIGATION

.... Respondent

Through: Mr. Anurag Ahulwalia, Advocate
with Mr. Mohit Nagpal, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed by the petitioner under Section 439 Cr.P.C for grant of regular bail in case FIR No. RC 221/2021/E0022/CBI/EO-III/New Delhi dated 30.11.2021 U/s 120-B r/w Section 170/419/420/467/468/ IPC and 66 D of IT Act, 2000 registered at police station CBI, DSPE, EO-III, New Delhi.

2. In brief, the facts of the case are that initially the present case was registered u/s 120-B IPC and Section 43 r/w 66, 66C and 66D of the IT Act 2000, on the basis of complaint of Sh. Vijay Mehta in respect of hacking of his mobile phone number 9810071115 and attempt by the hacker/fraudster

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to cheat his relatives or acquaintances. It is alleged that the fraudster/hacker posed as Vijay Mehta and started sending whatsapp messages to persons in his contact list which was stored in his mobile number. The fraudster/hacker was using a different mobile number i.e. +918367279970 but with the name and profile picture of Vijay Mehta. It has also been alleged that the fraudster/hacker sent messages to its receivers asking them to print a particular code number on their phones by which their phone could be hacked or hijacked. The hacker had provided his Gpay number 6289538293 and Canara Bank account number 110019864665.

3. During the investigation, it was revealed that the holder of the Gpay number 6289538293 has been traced and the same was found to be linked with SBI account number 40399788496 in the name of Tapas Halder R/o 93, Chandrapally, New Barrackpore, Kolkata, West Bengal. It was also revealed that many people had deposited money into the said account, one such depositor is Ms. Harpeet Kaur of Mohali, Punjab.

4. It was further revealed that the Instagram profile in the name of Dr. Richard Hartz was being accessed using mobile numbers 8798035631, 8453289782, 6909706611 and other mobile numbers. It was also revealed that suspected mobile numbers were being used by some Nigerian persons residing at a flat on 3rd Floor, Building No, 616/30, Gali No. 9, behind Axis Bank ATM, Gram Sabha Colony, Bindapur, Uttam Nagar, Delhi.

5. Accordingly, a search was conducted at the above mentioned premises. It is alleged that during the search proceedings mobile number 8798035631 along with other linked devices was recovered from co-accused



person Igboanusi Raphel Chiemelie and other devices used to access the fake Instagram IDs were also recovered. It is also being claimed by the investigating agency that during the said search several devices with fake Facebook and Instagram profiles including Dr. Richard Hartz were recovered. The said devices were also having the information/chats of the victims and also the fake certificates/invoices sent by the fraudsters.

6. As per the investigating agency, accused persons have cheated many people by creating fake profiles on various social media platforms and which is evident from their messages and call logs.

7. Allegations against the petitioner Christian Ifeanyichukwu @ Duru Christian are that he was involved in withdrawing and delivering the defrauded amount so cheated from the victims to the fraudsters. It is further alleged that at the time of the arrest of the accused he was found in possession of several ATMs cards of the bank accounts registered in the name of different persons which were used by him for receiving money from victims.

8. I have heard the Ld. counsel for the petitioner, Ld. counsel for the respondent (CBI), perused the Status Report and also perused the records of this case.

9. It is submitted by learned counsel for the petitioner that petitioner is in judicial custody since 29.05.2022 and the chargesheet has already been filed. It is further submitted that petitioner has clean past antecedents and one of the co-accused who is also a foreign national has also been granted bail. It is further submitted that there is no direct evidence against the petitioner and



the prosecution is only trying to build its case against the petitioner only on the basis of the indirect evidence. It is further submitted that no money has been recovered from the petitioner. It is further submitted that petitioner is now married to an Indian woman. It is further submitted that even if the petitioner is a foreign national, he could not be denied bail. In support of his contention, learned counsel for the petitioner has relied upon the following judgments passed by this Court:-

- ***Tinimo Efere Wowo v. The State Govt. NCT of Delhi*** [MANU/DE/0045/2022];
- ***Charles Ezih v. Narcotics Control Bureau*** [MANU/DE/3696/2023];
- ***David Collin v. Narcotics Control Bureau*** [MANU/DE/5241/2023].

10. On the other hand, it has been argued by learned counsel for the respondent (CBI) that the allegations against the petitioner are grave and serious in nature and the petitioner being a foreign national there are chances that he will flee from justice. It is further submitted that the stay of the petitioner in India is unauthorized. It is further submitted that petitioner is not entitled to parity with co-accused, namely, Nnagbo Benson Orajiuk.

11. In the present case, there is no dispute with regard to proposition of law that even a foreign national is entitled to bail, however, the same depends on the facts and circumstances of each case. Furthermore, merely filing of chargesheet does not create an unrestricted right in favour of the accused to be released on bail.

12. The petitioner in the instant case, is a foreign national who came to India on tourist VISA for a period of 6 months in May 2020 which was



expired in the same year and for the last two years, the petitioner is not having any valid documents for his stay in India. Therefore, the apprehension shown by the CBI that in case the petitioner is granted bail, he may not be available for trial cannot be brushed aside easily.

13. In the instant case, the allegations against the petitioner are grave and serious in nature. The petitioner along with his co-accused has cheated many people by creating fake profiles on various social media platforms which is evident from their messages and call logs. The petitioner as alleged is involved in withdrawing and delivering defrauded amount so cheated from the victim to the fraudsters. The petitioner at the time of his arrest was found in possession of several ATM cards of the bank accounts registered in the names of different persons which were used by him for receiving money from various victims. Further the investigation reveals that a substantial connection between the petitioner, with his co-accused parties A-1 and A-2. This connection was established through his WhatsApp account, as evidenced by the chat records retrieved from his mobile device. These records indicated his involvement in the management of a Union Bank of India account numbered 700302010003762, registered under the name of Pradeep Singh Kansana from Gwalior, Madhya Pradesh. This particular account was exploited for the receipt of ill-gotten gains resulting from fraudulent activities. Moreover, the examinations were conducted with victims including Ms. Arsha MU from Kollam, Kerala, Mr. Yogendra Pal Singh from Etawah, Uttar Pradesh, Mr. Stephan Gulli, from Hyderabad, Mr. Manchikanti Balaji Sasidhara Reddy from Hyderabad, Dr. Rasdeep from Sirsa, Haryana, Ms. Harpreet Kaur from Mohali, Punjab, and Mr. Ankur



Shrivastava from Gwalior, Madhya Pradesh. These examinations uncovered a common thread – each of these victims had fallen prey to the fraudulent schemes orchestrated by the accused parties, each under varying pretenses. As a consequence, these victims transferred monetary funds into the bank accounts overseen by the petitioner.

14. As far as the question of parity with co-accused, namely, Nnagbo Benson Oraziuk. is concerned, petitioner is not entitled to parity as there is a role difference between them. Therefore, looking into allegations and the facts and circumstances discussed hereinabove, no ground for bail is made out. The bail application is, therefore, dismissed.

15. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

NOVEMBER 29, 2023

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