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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2686 OF 2018

Mohd. Azzem Sayyed ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr.Subhash Jha a/w Mr.Harekrishna Mishra i/b Mr.Vivek Chauhan, for the Applicant.

Ms. Veera Shinde, A.P.P for the Respondent - State.

PI – Girish Bane, ATS, Vikhroli Unit, Mumbai, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th SEPTEMBER, 2019

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.9 of 2018 registered with the A.T.S. Police Station, Kalachowki, Mumbai, for the alleged offences punishable under Sections 465, 468, 471, 420 r/w 34 of the Indian Penal Code; under Sections 4, 20 and 25 of Indian Telegraph Act and under Sections 3 and 6 of the Indian Wireless Telegraphy Act.

3. Perused the papers. According to the prosecution, the investigating agency received a secret information on 18th April, 2018, pertaining to an illegal telephone exchange being used for making international calls. The information also revealed that the said telephone exchange was being run from Azad Nagar - 02, Near Ginger Hotel, Thane. Pursuant thereto, a team of police officers along with a Telecom Officer (DOT) was formed, on 19th April, 2018. The said team raided, 3rd Floor, 305, Royal Co-operative Society, ‘C’ Wing, Azad Nagar – 02, Thane. Two independent panch witnesses were also present in the said team. In the raid, it was found that one illegal telephone exchange was being run by Sayyed Mohammed Kasim. Sayyed Mohammed Kasim, was apprehended on the spot on 20th April, 2018. In the said raid from the aforesaid room, the police seized, one laptop, 5 sim boxes, power supply adopter cable, 122 sim cards, 03-4G router, mobile phone and some documents along with live call logs from laptop. During the course of investigation, co-accused - Sayyed Mohammed Kasim disclosed his brother’s (applicant) name and one Imran Ahmed Shaikh. Sayyed Mohammed Kasim is alleged to have disclosed that the said two persons were involved in the running of an illegal telephone exchange. The accused also disclosed that there is another telephone exchange, which is set up at Room No.101, Inayat Apartment, Rashid Compound, Kausa, Mumbra, District – Thane. Pursuant to the said

information, the police raided the said place and found 5 sim boxes, 113 sim cards, 1 laptop, 3 internet routers, Aadhar Card of accused – Imran Shaikh and other documents along with live call logs from laptop. The said articles were seized. The aforesaid house, where the raid was conducted allegedly belonged to accused – Imran Shaikh. According to the prosecution, the accused were running telephone exchange illegally without obtaining any license from the concerned department of Government of India. Pursuant thereto, Police Sub Inspector – Mahesh Tawde, attached to Anti Terrorism Squad, Vikhroli Unit, Mumbai, lodged the aforesaid complaint, alleging the aforesaid offences. During the course of the investigation, the applicant was arrested on 21st April, 2018. At the instance of the applicant, 2 mobile phones, 21 Airtel 4G sim cards, were seized. The investigation revealed that all the sim cards which were seized from all the accused were obtained by them by provided forged and bogus documents to the service providers. During the hearing of this application, learned APP had sought time on the ground that investigation under Section 173(8) of the Code of Criminal Procedure was in progress, pursuant to which, the aforesaid application was adjourned by eight weeks. Learned APP states that 84 statements were recorded during the said period, however, no material is found *qua* the applicant. The applicant is in custody since April, 2018. The applicant has no antecedents. Investigation is complete and charge-sheet is filed.

4. Having regard to the role of the applicant and the material *qua* him, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be released on cash bail in the sum of Rs.25,000/-, for a period of six weeks;

ii) The Applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs.25,000/-, with one or two local sureties in the like amount;

iii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., for a period of 24 months, from the date of his release;

iv) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

v) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.