* IN THE HIGH COURT OF DELHI AT NEW DELHI

% **Judgment Reserved On: 04.03.2019**
Judgment Pronounced On: 13.03.2020

\+ **Bail Appl. No. 617/2020**

ANKUR GOEL. ..... Petitioner

Through: Mr. Rakesh Tikku, Sr. Advocate along with Mr. Pritesh Sabbarwal, Mr. Jyotsna Mehta, Mr. Sandeep Kumar and Mr. Surya Prakash, Advocates.

versus

THE STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Tarang Srivastava, Ld. APP for the state with SI Manjeet PS: Cyber Cell, Special cell

HON'BLE MR. JUSTICE BRIJESH SETHI

J U D G M E N T

BRIJESH SETHI, J

1. Vide this order, I shall dispose of a bail application filed under Section 439 Cr.P.C. on behalf of the petitioner **Ankur Goel**

for grant of bail in FIR no. 150/2019, under Section 420/120B/34 IPC, PS Special Cell(SB).

2. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is innocent and has been falsely implicated. Petitioner is currently holding a Permanent Resident Permit of Germany. Petitioner is in custody since 03.02.2020. He has moved two bail applications dated 11.02.2020 and 13.02.2020 respectively before the Ld. CMM, Patiala House Courts but the same were dismissed. It is submitted that petitioner has no connection with the entire alleged transaction as neither the payment for the alleged transaction were made from the card of the petitioner nor the delivery of the goods were made to the petitioner. It is further submitted that offence of cheating was committed by one Naved Malik and petitioner is not even named in the FIR as an accused. It is further submitted that petitioner has no criminal antecedents and there are no chances of his absconding. It is, therefore, prayed that petitioner be released on bail.

3. Ld. Counsel for the petitioner, in support of its submissions, has relied upon the following case law:-

1) *Sanjay Chandra v. CBI, Crl. A.No. 2178 of 2011;*

2) *Arnesh Kumar v. State of Bihar & Anr., (2014) 8 SCC 273.*

4. I have gone through the above case law. It is a settled law that each bail application is to be decided on the basis of its own peculiar facts and circumstances. No straitjacket formula can be laid own for dispose of the bail application. So far as the cases cited by Ld. Counsel are concerned, these are distinguishable on the basis of the facts and circumstances stated therein.

5. Ld. APP for the State has opposed the bail application on the ground that the allegations against the petitioner are serious in nature. Petitioner had made call from mobile no. +491707744302 to the complainant and purchased goods. The CDRs of mobile phone no. +491707744302 duly prove the fact that orders were placed from this mobile phone only. He has, therefore prayed for dismissal of the bail application.

6. I have considered the rival submissions. The present case u/S. 419/420/120B/34 IPC was registered on a complaint filed by Ms Rose Conlan, on behalf of M/s Christian Louboutin India Pvt Ltd, a company dealing in super luxury leather items and having

store at DLF Emporio mall, Vasant Kunj, Delhi. It is alleged that one Naved Mallik, a US resident made a call on 11.03.2019 from a foreign no. +491707744302 at the landline phone of the outlet and showed his interest in purchasing shoes from the outlet. The caller provided his mail ID which was n.malli@kaza410.com. On 12.03.2019, the caller selected few items (shoes/purse) having total cost of Rs 25,80,500/-. On 19.03.2019, the caller used a different number i.e. 87368377395 and placed order and also forwarded authorisation letter in respect of three cards which were to be swiped, through another mail ID i.e. mnaved361@gmail.com. The payment was made from these cards on 19/03/2019 and delivery of these items (27 pairs of shoes and 3 bags) was taken by two persons from the outlet, sent by the caller on 20.03.2019. On 22.03.2019, the caller again placed order after selecting some other items and made payment of Rs 11,00,000/-in the same way and taken the delivery of items (8 bags/purse) on 23/03/2019 through the same two persons. Thereafter, the caller raised a dispute on the transaction of the credit cards and got charge back of the full amount. Thus, it caused a wrongful loss to the company for an amount of Rs. 36,80,500/-. The ILD search report of the alleged phone number +491707744302 was obtained from Indian telecom service providers and it was found that some Indian phone numbers were in contact with this number. Analysis of those numbers led to an Indian mobile number i.e. 7777877774. According to CAF, phone no. 7777877774 was issued to the petitioner and it was found that phone no.7777877774 has made several calls to Hotel JW Marriott, Aerocity, Delhi. Investigation at Hotel JW Marriott revealed that one Ankur Goel R/o Frankfurt, Germany having an Indian passport No. Z2873089 is a regular customer of this hotel. Phone numbers +491707744302, 7777877774 and 9988333389 were mentioned as his number in the hotel record. Efforts were made to trace the petitioner Ankur at his Punjab address but the same was found locked. Local enquiry revealed that the family of petitioner had shifted abroad several years back. Thereafter, as there was no clue regarding the whereabouts of petitioner, LOC to intercept him was issued on 5.09.2019. Thereafter, in the night of 03.02.2020, petitioner was intercepted at IGI Airport while he landed at Delhi Airport and was arrested. He disclosed that in year

2016, he along with Naved Malik and Shaheer Rizwan had entered into a business of Desert safari but after some months, he left the business. Due to lack of fund, the desert safari business was closed and Naved and Shaheer suffered huge losses. Thereafter, to settle the losses of Naved and Shaheer, all three decided to purchase the goods from Christian Louboutin India and then sell it in Dubai. Whenever petitioner came to India, he used to shop from Vasant Kunj, Delhi outlet of M/s Christine Louboutin India Pvt Ltd. It is further alleged that at the instance of Naved Mallik, petitioner introduced himself as Naved Mallik and after placing the orders, made payments from Virtual credit cards. After the goods were collected from the outlet, a charge back was raised by Naved Mallik upon which the payment of Rs 36,80,500/-was reimbursed to him. Petitioner has also revealed that to collect the goods from the outlet, he had sought the help of one Anil, an Indian resident overstaying in Germany. Anil himself managed two of his friends in India to collect the goods from the outlet in Delhi. The goods were later shipped by those persons to Shaheer through courier in Dubai. Details of the shopping done by petitioner from Gucci were obtained and found that the same number ie +491707744302 was mentioned in their record as Ankur Goel's number. One Vishal Pannu, running business of second hand car sale/purchase and who was in contact with petitioner through number +491707744302 has been examined. He has also confirmed that this number belongs to Ankur Goel. The complainant has provided the printouts of whatsapp chat with +491707744302 (Ankur Goel's number). In this chat, the accused has clearly introduced himself as Naved Mallik and stated that his mail ID is n.malik@kaza410.com. It is further submitted that two mobile phones and one laptop have been recovered from the possession of the petitioner. From one of the mobile phone of petitioner, the photos of the shoes and purse purchased from Christian Loubotin have been recovered. The complainant Ms Rose Conlan has identified the photos to be of the same items which were purchased by said 'Naved Mallik' and delivered to his two agents on 19/03/2019 and 22/03/2019.

7. Thus perusal of record reveals that the act of the petitioner has caused wrongful loss to the complainant company i.e. M/S Christian Louboutin India Pvt. Ltd. to the tune of Rs. 36,80,500/-.

Petitioner has made voice calls as well as whatsapp chat with the complainant with his own German phone number +491707744302 and got the deal finalized. As per the record obtained from hotel JW Marriott and Gucci, this number allegedly belongs to the petitioner. Call details of complainant as well as of the petitioner's numbers +491707744302 are corroborating with the version of complainant that he received calls on his outlet's landline number as well as on his mobile number. Photos of the case property i.e. foot wears and purses are found in the phone recovered from the possession of petitioner.

8. In view of the above facts appearing on record which, prima facie shows active involvement of the petitioner in cheating the complainant to the tune of Rs. 36,80,500/-, no grounds for bail are made out at this stage. The bail application is, therefore, dismissed and stands disposed of accordingly.

BRIJESH SETHI, J

MARCH 13, 2020

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