IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51187 of 2021

Arising Out of PS. Case No.-487 Year-2021 Thana- MUZAFFARPUR TOWN District- Muzaffarpur

==

Prabhat Ranjan, aged about 50 years, Male, son of Sh. Shyam Nandan Prasad, resident of Rusulpur Wazid, Post- Bhikhanpur, P.S- Ahiyapur, District- Muzaffarpur, Bihar- 842004

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

==

Appearance :

For the Petitioner/s	:	Mr. Ravi Bhardawaj, Advocate
For the State	:	Mr. Dilip Kumar No. 1, APP

==

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 04-10-2021

The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner, which was allowed.

2. Heard Mr. Ravi Bhardawaj, learned counsel for the petitioner and Mr. Dilip Kumar No. 1, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner apprehends arrest in connection with Town PS Case No. 487 of 2021 dated 03.07.2021, instituted under Sections 420, 379, 467, 468, 120-B/34 of the Indian Penal Code.

4. The allegation against the petitioner is that the firm of which he is the proprietor has issued SIM card of the

informant to an impersonator which was misused for defrauding the informant of Rs. 22,40,000/- from his account through online banking of Punjab National Bank (PNB).

5. Learned counsel for the petitioner submitted that he is the proprietor of M/s Pranav Enterprises, which has two offices; one in the office of BSNL where it works as Common Service Center of BSNL which has outsourced the operation and maintenance works of its consumers to the petitioner and the other is a shop of M/s Pranav Enterprises, which issues new SIM Cards. Learned counsel submitted that a fraud was committed as co-accused Md. Zafar Iqbal had visited the shop of M/s Pranav Enterprises on 24.06.2021 posing as the informant, namely, Ramdev Ram and had got a new SIM Card issued for the existing number of the informant on the basis of Aadhar Card on which the photograph was forged and fabricated being that of co-accused Md. Zafar Iqbal. It was submitted that the firm of the petitioner does the job of verifying the initial documents submitted by the proposed consumer to the extent of verifying the details without verification of the photograph, as the portal does not have the photograph of the persons, who are submitting their identity card with the firm of the petitioner and that is why the requirement is that a fresh SIM

Card would be issued, but the same would be activated after the papers forwarded by the petitioner's firm would be verified by the BSNL, which has the photograph of the customer, in which the petitioner's firm has no role. It was submitted that later on when on 24.06.2021, on issuance of a new SIM Card to the co-accused when it was activated, his mobile connection went away and that is why he had come on 25.06.2021 to the Common Service Center of BSNL where at the counter, co-accused, Santosh Anand, who is a BSNL employee was present and had taken the Aadhar Card of the informant and had issued him a fresh SIM Card which was also activated. Learned counsel submitted that on 28.06.2021, the informant's network was again lost and when he visited BSNL on 29.06.2021, though a new SIM Card was again issued to him, but the network problem remained unresolved. Learned counsel submitted that as per the FIR version, the informant again visited the petitioner's franchise firm in the BSNL office on 30.06.2021 and met co-accused Santosh Anand, who had informed that his connection has been closed and he should get new connection with new number. Learned counsel submitted that it is further alleged that on 29.06.2021 and 30.06.2021 itself such fraud has been committed where, from the PNB Account of the informant, through online transaction, Rs. 22,40,000/- had been siphoned off. Learned counsel submitted that co-accused Md. Zafar Iqbal, who was arrested, has confessed that he was working with a gang which also operates from Kolkata and Bengaluru and presently, he is in custody, and that PNB officials were also involved. Learned counsel submitted that the reason why the franchise firm of the petitioner had informed the informant on 30.06.2021 that he would have to get a fresh SIM was due to the fact that the said co-accused, Md. Zafar Iqbal, had changed the service provider from BSNL to Vodafone-Idea and from such network the fraud was committed. Learned counsel submitted that the petitioner has no role in such fraud and there were no lapses on the part of his firm as whatever was required to be verified was verified online by the petitioner's firm and it is not in dispute that the details in the verification papers tallied except the photograph, which is not available to the franchise and the same has been verified directly by the BSNL through its portal before activating the SIM Card. It was submitted that the petitioner has been running the business since long and there has been no complaint and he also has no other criminal antecedent.

6. Learned APP submitted that as per the allegation,

the petitioner's firm had issued SIM to the co-accused, Md. Zafar Iqbal, who has committed such online fraud. However, it was not disputed that on 24.06.2021, co-accused, Md. Zafar Iqbal, had got the SIM Card from the shop of the petitioner's firm, whereas, the informant had come on 25.06.2021 to the franchise office of the petitioner's firm in the BSNL office, which indicates that the misuse of the Aadhar Card was a day prior to the Aadhar Card submitted by the informant to the franchise counter in the BSNL office of the petitioner's firm which was a day later and thus, such misuse could not have been through the petitioner's firm.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of the fact that the misuse of the Aadhar Card on which photograph was forged and fabricated was a day prior to the copy of the Aadhar Card submitted by the informant at the franchise counter of the petitioner's firm in the BSNL office, indicating that the copy of the Aadhar Card made available by the informant to the petitioner's firm was a day after the fraud was already committed as also the petitioner having no criminal antecedent coupled with the fact that the co-accused has confessed his involvement without indicating any role of the

petitioner's firm and rather, the role of the PNB officials, the Court is inclined to allow the prayer for pre-arrest bail.

8. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Muzaffarpur, in Town PS Case No. 487 of 2021, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further (i) that one of the bailors shall be a close relative of the petitioner, (ii) that the petitioner and the bailors shall execute bond with regard to good behaviour of the petitioner, (iii) that the petitioner shall also give an undertaking to the Court that he shall not indulge in any illegal/criminal activity, act in violation of any law/statutory provisions, tamper with the evidence or influence the witnesses and (iv) that the petitioner shall cooperate with the Court and the police/prosecution. Any violation of the terms and conditions of the bonds or the undertaking or failure to cooperate shall lead to cancellation of his bail bonds.

9. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the

notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

10. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J)

J. Alam/-

AFR/NAFR	
U	
T	