

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

Date of decision: 13<sup>th</sup> DECEMBER, 2021

IN THE MATTER OF:

+ **BAIL APPLN. 2588/2021**

MOVEEN

..... Petitioner

Through Mr. Nikunj Verma, Advocate

Versus

STATE

..... Respondent

Through Mr. Amit Chadha, APP for the State  
Mr. Vikas Pahwa, Senior Advocate  
with Mr. Rishikesh Kumar, Advocate  
for the complainant

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**SUBRAMONIUM PRASAD, J.**

1. The petitioner has filed the present application for grant of interim bail for period of 30 days in FIR No. 39/2021 dated 07.02.2021 registered at Police Station Civil Lines for offences under Section 420 IPC.

2. The facts in brief leading to the instant petitions are as follows:-

- i. It is stated that the complainant uploaded certain articles up for sale on OLX website. In response to her offer of sale, she got a call from mobile No.8099320332 by one Raghuvendra Singh, who offered Rs.21,000/- for the said items, to which the complainant agreed and the transaction was to be done through online payment mode. A dummy transaction of Rs.21/- was done by Raghuvendra to verify the correctness of the transaction.

- ii. It is stated that Raghavendra Singh resisted to do a complete transaction through internet banking and insisted to make transactions in tranches on Paytm, Google Pay, HDFC and SBI. It is stated that the complainant transferred a total of Rs.34,000/-. After which, the complainant was not able to contact the said Raghavendra Singh after calling multiple times and suspected that she had been defrauded by the said person.
  - iii. Based on this information, FIR No.39/2021 dated 07.02.2021 registered at Police Station Civil Lines for offences under Section 420 IPC. SI Kishan Chand and SI Rohit, in charge of Cyber Crime Cell, North District, Maurice Nagar were assigned the case and made efforts to understand the *modus operandi* and to nab the accused persons.
3. After preliminary enquiries, one Kapil Kumar Rajoria, a student of 12<sup>th</sup> Standard stated that he made friends with petitioner Manvendra Singh, who allegedly lured him with a sum Rs.1,000/- if he owned a bank account and operated a phone number under a fictitious name and address. It is stated that Kapil Kumar Rajoria opened a bank account accordingly and the ATM card cheque book was with Manvendra Singh.
- i. It is stated that Kapil Kumar Rajoria was arrested from Anandpuri, Mathura, U.P. and was remanded to Police custody for two days. The involvement of other accused was revealed to the Police.
  - ii. Based on revelations, Sajid (petitioner in BAIL APPLN. 3877/2021) was interrogated, he stated that he is a taxi driver and had made friends with Waris (petitioner in BAIL APPLN.

2753/2021), who allegedly enticed him to open a fake bank account with a sum Rs.2,000/- if he owned a bank account and operated a phone number under a fictitious name and address. Accordingly, Sajid opened numerous bank accounts with HDFC bank, ICICI bank, IDBI bank, IPO Bank, Fincare Small Finance Bank. Sajid further allegedly disclosed that before depositing money in the abovementioned accounts, Waris would call him and inform him. On checking the statements of these bank accounts, it was noticed that on 07.02.2021 a payment of Rs.20,000/- was deposited by Waris into Sajid's Indian Post Payments Bank account. Petitioner/Sajid was arrested on 11.02.2021.

- iii. Further joint enquiries by the Cyber Cell and the Police, got them in contact with the Manvendra Singh (petitioner in BAIL APPLN. 2831/2021), who stated that he was preparing for a government job and had made friends with Waris who allegedly lured him to commit online frauds and told him that online bank accounts with fictitious addresses had already been opened and the stage was set to dupe people without any detection. Waris allegedly told him that he would be paid Rs.5,000/- per transaction for each account. Petitioner/Manvendra Singh was arrested on 11.02.2021.
- iv. After this, on 13.02.2021, the three accused persons, namely, Kapil Kumar Rajoria, Sajid, and Manvendra Singh were produced before the learned Magistrate, who remanded them to 14 days' judicial custody.

- v. During the custodial interrogation of the accused/Waris, he allegedly disclosed that he was working as a private school teacher and during this time he was introduced to the petitioner/Moveen, R/o Village-Bheelamka, Tehsil-Deeg, Bharatpur, Rajasthan; who lured him to commit online frauds and asked him to open bank accounts under false identities and addresses. He allegedly disclosed that he worked him for about six months and used to get a 20 per cent profit of the defrauded amounts. The petitioner was arrested on 16.02.2021.
  - vi. During investigation, details of the bank accounts which were being operated by the accused/petitioners herein was extracted and the notices under Section 91 CrPC were issued to bank officials to furnish statements of these fictitious accounts.
  - vii. The mobile numbers used by the accused/petitioners were inquired into and cellular companies were contacted to submit the Call Detail Records of the petitioners. The CDRs reveal that the petitioners were in continuous communication with each other.
4. Investigation has been completed and chargesheet was filed on 15.03.2021. In the chargesheet, Section 467, 468, 471, 201, 34 IPC and Section 66D of the Information & Technology Act, 2000 were added.
5. The bail applications of the petitioner were dismissed by a common order dated 05.07.2021 passed by the learned Trial Court stating that the petitioner is accused of embezzlement and used clever devices to cheat many innocent persons on the internet, the transactions of which were still

being investigated by the Cyber Cell/IT Department and this was the first time that they were caught.

6. Heard Mr.Nikunj Verma, learned counsel for the petitioner, Mr.Amit Chadha, learned APP for the State and Mr.Vikas Pahwa, learned Senior Advocate for the complainant.

7. Learned counsel for the petitioner contended that the chargesheet and the supplementary chargesheet both stand filed. The petitioner has been in custody for 10 months. He contends that the nature of evidence against the petitioner is documentary in nature which would not require the custodial presence of the petitioner. It is contended that this is the offence has been committed first time by the petitioner and he does not have any criminal antecedents. He submits that although the petitioner is an adult, he is in the prime of his youth and has a good future ahead. Being incarcerated as undertrial would deprive him of being gainfully employed. It was submitted that there is no substantial evidence against the petitioner apart from the disclosure statements of the other co-accused. It was lastly submitted that there are over 15 witnesses which are slated to be examined in the trial and given the ongoing pandemic situation, the trial may not commence any time soon. Therefore, the petitioners should be released on bail.

8. *Per contra*, Mr. Amit Chadha, learned APP vehemently opposes the bail application of the petitioner stating that the acts of which the petitioner has been charged with was executed in a very organized way. He submits that the petitioner created bank accounts giving false details in order to not get caught and purchased SIM cards in fictitious names which were used to defraud and cheat gullible people who sold and purchased goods from the internet. It is further submitted by him that that SIM cards were obtained by

petitioner by giving fake IDs and further the charge of forgery was also made out against them. He submitted that the charge of forgery prescribes a punishment of 10 years extending upto life imprisonment, and, therefore, bail ought not to be granted to the petitioner at this stage.

9. Mr. Amit Chadha, learned APP, submitted that the Call Detail Records shows that the petitioner was in touch with the other co-accused frequently and that there were many bank transactions amongst them that were observed during investigation. He fairly conceded that the petitioner did not have any criminal antecedents but contended that the petitioner had not just defrauded the present complainant but many other persons and the same was being investigated into by the authorities. He submitted that if the petitioner is released on bail, he is likely to tamper with evidence and will abscond from the trial. He states that on seeing the bank statements, so far the accused have cheated people of a total sum of Rs.7,00,000/-.

10. Mr. Vikas Pahwa, learned Senior Advocate appearing on behalf of the complainant, adopted the submissions made by the learned APP. He additionally submitted that this type of an online fraud has become widespread in the North of India whereby many innocent people have been cheated. He submitted that this Court should not exercise its discretion in granting bail to the accused as it would send a deterrent message to other persons engaging in similar activities. Mr. Pahwa expressed a concern that since the petitioners are residing at different places, there is a likelihood of their fleeing from justice.

11. The parameters to consider for grant of bail have been consistently enunciated by the Apex Court in Ram Govind Upadhyay v. Sudarshan Singh

& Ors., 2002 (3) SCC 598 and Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr. 2010 (14) SCC 496 are as follows:-

- a) Nature and gravity of charge;
- b) Severity of the punishment in case of conviction;
- c) Apprehension of witnesses being tampered with
- d) Whether there is a prima facie ground to believe that the accused committed that offence;
- e) Character, behavior, position of the accused and standing of the accused;
- f) Danger of Justice being subverted if accused is released on bail;

12. The Chargesheet has been filed. The supplementary Chargesheet has also been filed. The petitioners have been in judicial custody for 10 months. This Court is aware that this kind of online cheating and fraud has become rampant in most parts of the country. Gravity or seriousness of the allegations alone cannot be a ground to deny bail to the accused if the facts and circumstances of the case entitles the accused to be released on bail. The investigation has been completed and the chargesheet has been filed before the learned Trial Court. The evidence are primarily documentary in nature. The petitioner is in no position to tamper with evidence which is in custody of the Police and taking into account his social status, the chances of the petitioner to threaten the witnesses are remote. This Court, therefore, is of the opinion that no useful purpose will be served by further keeping the petitioners in custody. Therefore, this Court is inclined to grant interim bail to the petitioner for a period of 30 days on the following conditions:-

- i. The petitioner shall furnish a bail bond in the sum of Rs.25,000/- with two sureties of the like amount, one of them being a relative to the satisfaction of the Trial Court.
- ii. The petitioner is the resident of Village-Bhimlamka, Tehsil-Deeg, Bharatpur, Rajasthan, Police Station Deeg. He shall continue to reside at the same address during the period he is on interim bail.
- iii. The petitioner is directed to report to the local Police Station-Deeg every Monday and Friday, during the period they are out on bail.
- iv. The petitioner is directed not to tamper with any evidence or influence the witnesses directly or indirectly.
- v. The petitioner is warned not to indulge in the same activities hereafter.
- vi. The petitioner shall give all his mobile numbers to the investigating officer and shall keep them operational at all times.
- vii. The petitioner is directed to surrender after 30 days of his release from jail.

13. The petition is disposed of with the above observations along with the pending application(s), if any.

14. A copy of this order shall be communicated to the concerned Jail Superintendent and the SHO Police Station-Deeg, Bharatpur, Rajasthan.

**SUBRAMONIUM PRASAD, J**

**DECEMBER 13, 2021/hsck**