

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

Date of decision: 13th DECEMBER, 2021

IN THE MATTER OF:

+ **BAIL APPLN. 2753/2021**
WARIS

..... Petitioner

Through Mr. Nikunj Verma, Advocate

versus

STATE OF NCT OF DELHI

..... Respondent

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

+ **BAIL APPLN. 2831/2021**
MANVENDRA SINGH

..... Petitioner

Through Mr. Nikunj Verma, Advocate

versus

STATE (NCT OF DELHI)

..... Respondent

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

+ **BAIL APPLN. 3877/2021**
SAJID

..... Petitioner

Through Mr. Mohd Rais Farooqui, Advocate

versus

THE STATE GOVT. OF NCT OF DELHI

..... 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. BAIL APPLN. 2831/2021 has been filed for grant of regular bail in FIR No. 39/2021 dated 07.02.2021 registered at Police Station Civil Lines for offences under Section 420 IPC.
2. BAIL APPLN. 2753/2021 has been filed for grant of regular bail in FIR No. 39/2021 dated 07.02.2021 registered at Police Station Civil Lines for offences under Section 420 IPC.
3. BAIL APPLN. 3877/2021 has been filed for grant of regular bail in FIR No. 39/2021 dated 07.02.2021 registered at Police Station Civil Lines for offences under Section 420 IPC.
4. The facts in brief leading to the instant petitions are as follows:-
 - i. The complainant states that she 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 agreed 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.

5. After preliminary enquiries, one Kapil Kumar Rajoria, a student of 12th 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, Petitioner/Sajid was interrogated, he stated that he is a taxi driver and had made friends with Petitioner/Waris, 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 Petitioner/Manvendra Singh, who stated that he was preparing for a government job and had made friends with Petitioner/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. Petitioner/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 accused/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. Petitioner/Moveen arrested on 16.02.2021.

- vi. During investigation, details of the bank accounts which were being operated by the accused/petitioners herein were 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.

6. 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.

7. The bail applications of the petitioners, Sajid and Manvendra were dismissed vide a common order dated 05.07.2021 passed by the learned Trial Court stating that the petitioners were 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.

8. Heard learned counsel for the parties and perused the material on record. Mr.Nikunj Verma, learned counsel for the petitioners, Waris and Manvendra. Mr. Mohd. Rais Farooqui, learned for the petitioner, Sajid. Mr.Amit Chadha, learned APP for the State and Mr.Vikas Pahwa, learned Senior Advocate appeared for the complainant.

9. Learned counsels for the petitioners contended that the chargesheet and the supplementary chargesheet both stand filed. The petitioners have been in custody for 10 months, they contend 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 petitioners and they do not have any criminal antecedents. They submit that the petitioners are although are adults but are in the prime of their youths and have a good future ahead, being incarcerated as undertrials would deprive them of being gainfully employed. It was submitted that there is no substantial evidence against the petitioners apart from the disclosure statements of each other. It was lastly submitted that there are over 15 witnesses who 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.

10. Per contra, Mr. Amit Chadha, learned APP vehemently opposes the bail applications of the petitioners stating that the acts of which the accused have been charged with was executed in a very organized way. He submits that the petitioners 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 petitioners by giving fake IDs and further the charge of forgery was also made out against them. He submitted that the charge of forgery prescribe a punishment of 10 years extending upto life imprisonment, and, therefore, bail ought not to granted to the petitioners at this stage.

11. Mr. Amit Chadha, learned APP submitted that the Call Detail Records showed that the petitioners were in touch with each other frequently and that there were many bank transactions amongst the petitioners that were observed during investigation. He fairly conceded that the petitioners did not have any criminal antecedents but contended that these persons 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 petitioners are released on bail, they are likely to tamper with evidence and will abscond from the trial. He states that on seeing the bank statements, so far the petitioners have cheated people of a total sum of Rs.7,00,000/-.

12. Mr. Vikas Pahwa, learned Senior Advocate appeared 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.

13. Heard.

14. The parameters to be considered for grant of bail as has 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;

15. 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. However, this Court cannot remiss in performing its duty, that is to uphold liberty subject to other relevant considerations. Since the investigation has been completed and the chargesheet has been filed before the learned Trial Court and taking into account the evidence are primarily documentary in nature, 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 regular bail to the petitioners on the following conditions:-

- i. The petitioners Manvendra Singh, Waris and Sajid 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, Manvendra is the resident of Village- Mudseras, Govardhan, Mathura, Police Station Govardhan.
- iii. The petitioner, Waris is the resident of Village-Daulatpur, Govardhan, Mathura, Police Station Govardhan.

- iv. The petitioner, Sajid is the resident of Village-Singar, Nuh, Haryana, Police Station Bichhor.
- v. The petitioners are directed to report to the concerned Police Station every Monday and Friday, during the period they are out on bail.
- vi. The petitioners are directed not to tamper with any evidence or influence the witnesses directly or indirectly.
- vii. The petitioners are warned not to indulge in the same activities hereafter.
- viii. The petitioners shall give all their mobile numbers to the investigating officer and shall keep them operational at all times.

16. The petitions are disposed of with the above observations along with the pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 13, 2021

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