IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4298 of 2021

Ashokkumar Gajanan Mandal .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

INTERIM APPLICATION NO. 3058 OF 2022

IN

BAIL APPLICATION NO. 4298 OF 2021

Sudhir Nair .. Applicant

Versus

The State of Maharashtra & Anr .. Respondent

WITH

BAIL APPLICATION NO. 1132 of 2022

Jitendra Rajkumar Mandal .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

INTERIM APPLICATION NO. 3059 OF 2022

IN

BAIL APPLICATION NO. 1132 OF 2022

Sudhir Nair .. Applicant

Versus

The State of Maharashtra & Anr .. Respondent

WITH

BAIL APPLICATION NO. 4464 of 2021

Santosh Kumar Doman Mandal .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH

INTERIM APPLICATION NO. 3056 OF 2022

IN

BAIL APPLICATION NO. 4464 OF 2021

Sudhir Nair .. Applicant

Versus

The State of Maharashtra & Anr .. Respondent

…

Mr. Aabad Ponda with Shailesh Kharat for the applicant in BA 4298/2021.
Mr.Sachin Chandan for the applicant in BA 1132/2022.
Mr.M.V. Rawool i/b Sachin Gawade for the applicant in BA 4464/2021.
Mr.Mihir Gheewala i/b Santosh Pawar for intervenor in all applications.
Mrs.A.A. Takalkar, APP for the State.
Smt.Savita Shinde PI from BKC Cyber police station.

CORAM: BHARATI DANGRE, J.
DATED : 18th OCTOBER, 2022

P.C:-

1 Heard learned Senior counsel Mr.Ponda for the applicant in BA No.4298/2021, Advocate Sachin Chandan for the applicant in BA No.1132/2022 and Advocate M.V. Rawool for the applicant in BA No.4464/2021.

2 I have also heard the learned APP Ms.Takalkar for the State and in the presence of PI Smt.Savita Shinde. The Intervention Application is filed by Advocate Mihir Gheewala who is also heard.

C.R.No.29/2021 came to be registered with Cyber Cell Police Station, Mumbai for the offence punishable u/s. 419, 468, 469, 471, 500, r/w Section 34 of IPC and 66C, 66D of Information Technology Act, 2008.

3 The C.R. came to bee registered on the complaint filed by the Deputy Manager Shri Sudhir Nair working in Security Loss and Prevention Department, of Reliance Jio Company. He allege that in the month of January 2021, an unknown person by name Ashutosh Verma applied for Bulk SMS Registration on the online portal at Jio Mobile Website and obtained necessary permissions through the online portal by posing himself as an authorized Reliance Jio Representative. He is alleged to have sent Bulk Messages from May 2021 to June 2021, and the allegation is, large number of messages were forwarded to the mobile users under the head of 'ROBSTL' and 'HETAHS', by sending fake messages. It is alleged that vide the said SMS, the mobile users were asked to download the software and by using the software, valuable information of the users was procured and it is alleged that this act resulted in maligning the name of Reliance Jio Info Com. In the subject C.R, the two applicants i.e. Jitendra Mandal and Ashok Kumar came to be

arrested on 1/8/202, whereas Santosh Kumar was arrested on 4/8/2021. On completion of investigation, the charge-sheet is filed.

I have perused the charge-sheet placed on record which allege that all the four accused persons, in connivance with one another, by projecting themselves as authorized representatives of various telecom companies/banks had forwarded sms between March-April 2020 to June 2021 to the customers by using header "ROBSTL' and HETAHS'. The messages forwarded read as under :

> "Dear, xxxxxxx
>
> Your tele verification is pending. Please call your executive at (Mobile No.xxxxxx). Service will be stopped within 24 hours.
>
> Thanks, RIMPL"

4 The charge-sheet allege that similar type Template messages in bulk were forwarded through tele communication service providers and the Telemarketer Solution Infini Technologies Pvt.Ltd vs. Kaleyra Bangalore, Karnataka, Leeway Softech, Talgo Telecommunication Pvt.Ltd. etc. and by using the services of other companies.

5. It is alleged that while availing the services of the various companies/Telemarketer, it is alleged that the accused persons had forged certain documents and procured the

registration and got the Templates approved. Thereafter, by compelling the customers to download spy software APPs, their personal and financial information was stolen and this caused humiliation to the Jio Company.

As far as the three applicants are concerned, I have scanned the charge-sheet to ascertain their exact role. From the material compiled in the charge-sheet, Jitendra Kumar Mandal i.e. accused no.2 is attributed an act of registering the DLT (Distributed Ledger Technology) Code 'ROBSTL' on Reliance Jio Platform by using company name Robe India Marketing Pvt.Ltd. (RIMPL). It is alleged that the DLT Code 'ROBSTL' Template message was procured by him and he made payment to Solution Infini Technologies (Bulk Sms Provider Company to send bulk sms on 29/5/2021. He is accused of forging documents in the name of two companies Lakash Marketing and AAD Healthius Life Sciences Pvt.Ltd. Bulk Sms were sent in the name of these two companies to 2,31,601 people by using the name of Jio, SBI, Airtel etc. The charge-sheet state that a call back number was mentioned to call and complete the tele-verification, and during the call, the caller asked the victim to carry out a recharge of Rs.10/- on 'My Jio' or any authentic App, but before this, the caller was asked to install the App 'Any Desk', which gives display and control of the mobile of the victim. It is alleged that by adopting the aforesaid modus operandi, the accused collected financial transactions of the victims and siphoned money. The victim Ranjit Pandit is alleged to have received sms from DLT code 'ROBSTL' on 6/6/2021 and while in communication with the caller, sum of rs.73,868/- was siphoned through the App 'Any Desk', which gave control of the data belonging to the user.

As far as Ashok who is alleged to be his nephew is concerned, the charge-sheet accused him of a link with accused no.2 and reliance is placed on some Whatsapp Chat with him regarding demand of money and providing of numbers for sending him bulk sms. A connection is attempted to be established between the two accused persons to draw an inference that they had siphoned the amount of Rs.73,868/- from Ranjit Pandit. The charge-sheet reflect some monetary transaction between the two and the learned counsel Mr.Ponda would submit that they are related to one another, the financial transactions should not be looked with suspicion.

As far as the third accused Santosh Mandal is concerned, his involvement in the subject C.R is established through statement of prime accused no.1, who had forwarded the bulk sms and some whatsapp messages with accused no.1 are relied upon.

6. When I have heard the learned counsel for the intervenor, I asked him to ascertain the loss caused to the complainant company, he states that it may not be necessarily a monetary loss, but the reputation of the company was put to stake

as their customers were defrauded by using the templates, giving an impression that the messages were received from the online portal of Jio Mobile.

7. In any case, from the entire episode, it is only one witness Mr.Ranjit Pandit who has come forward to establish that he was duped of some amount. Apart from this, there is no other material in the charge-sheet which would indict the applicant for using the personal and financial data of the customers, though their intention prima facie appeared to have access to the personal details of customers including the bank accounts/ financial transactions.

Ultimately, it is upto the prosecution to establish it's case beyond reasonable doubt and when it accuse the applicant of a cyber crime, the charges must be conclusively established during the trial.

8. Since the investigation is complete, and the charges against the applicants are now crystallized in the charge-sheet filed before the Competent Court, I do not feel that their further incarceration should be continued.

9. The prosecution express an apprehension that the applicants are residents of Jharkand and they will not be available for trial. The said aspect can be taken care of by imposing an appropriate condition. Hence, the following order :-

ORDER

(a) The Applicant - Ashokkumar Gajanan Mandal in BA No.4298/2021, applicant Jitendra Rajkumar Mandal in BA No.1132/2022 and applicant Santosh Kumar Doman Mandal in BA No.4464/2021 in connection with C.R.No.29/2021 registered with Cyber Cell Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or more sureties of the like amount.

(b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicants should not tamper with evidence.

(c) The applicants shall mark their attendance to the concerned police station on first Monday of alternate month between 3 to 5 pm, and on any consecutive default in attending the trial without exemption being granted by the trial court, would justify the prosecution to bring out the application for cancellation of bail.

(d) The applicants shall attend the trial on regular basis.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

The Applications are allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)

Tilak