

11.10.2023

SL. 22

Court No. 29

Sourav

(Rejected)

C.R.M. (A) 4073 of 2023

In Re: - An application for anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with **Phoolbagan** Police Station Case No. **110** of **2023** dated **16.06.2023** under Sections **420/ 406/ 120B** IPC adding Sections **419/ 467/ 468/ 441** IPC (corresponding to G.R. Case No. 1469 of 2023).

And

In the matter of: **Manoj Madhavrao Sonawane**

....petitioner.

Mr. Milon Mukherjee, Sr. Adv.

Mr. Ayan Bhattacharya

Mr. Kunal Ganguly

Mr. Tirupati Mukherjee

...for the petitioner.

Mr. Rudradipta Nandy, Ld. APP

Mrs. Sonali Das

...for the State.

Mr. Sandipan Ganguly

Mr. Sourav Chatterjee

Mr. Suryaneel Das

Mr. Chiranjit Pal

... for the defacto complainant.

1. Heard learned Counsel for the parties.
2. The petitioner is stated to be the owner and director of one Wordbox Services Pvt. Ltd.
3. From the FIR lodged in the case, we find that four names have been mentioned as accused and they are i) Mastermind Services, ii) Mr. Bharat Kumar Rathor, iii) Mr. Sachin Shete and iv) Mr. Ramesh Bharatifor. In the FIR, there is no mention of the name of the present petitioner. Initially, offence under Sections 420/406/120B was alleged. Subsequently, offence under Sections 419/467/468/441 IPC has been added and investigation was taken up.
4. It is alleged in the FIR that the accused persons named in the

FIR had approached the informant for sale of “SMS Push Services” at a price of Rs. 1,87,06,474/-. Though the service was provided, no payment was made till 26.12.2022.

5. In course of investigation came to light that a fake E-mail ID has been generated in the name of Mastermind Services. Further investigation revealed that the fake E-mail ID has been generated by using a cell number belonging to the company of the present petitioner. From the investigation, it was found that the entire services of ‘SMS Push’ has been hijacked by the company of the present petitioner in the name of Mastermind Services through fake E-mail IDs created at different times.
6. It is submitted by learned Counsel for the informant that the SMS services used by an unauthorized person in the guise of another company had the potency not only to defraud that another company but the public at large by sending SMS of different services by opening of which link given in the SMS, fraud may be committed in respect of the account of the public at large.
7. Mr. Mukherjee, learned Senior Counsel appearing for the petitioner in answer submits that the fact that the phone number of the company of the petitioner was used for the purpose of creation of fake E-mail ID is available in the web as submitted by Mr. Nandy, learned Additional Public Prosecutor. The direct involvement of the petitioner is not established and any employee or agency of the petitioner might have played foul with the petitioner. The entire evidence

being document based, there is no justification for custodial interrogation.

8. Having heard learned Counsel for the parties, we are of the view that though no offence under the provisions of IT Act has been charged by the police, the offence committed by the petitioner, his employee or his agencies as the case may be, is very serious in nature and it has serious ramification on the public at large. The investigation should be driven more towards the root to find out how far the "Push SMS Service" has been used by the petitioner or his employee or his agencies as the case may be to get benefit out of that and whether any individual of the general public has been affected by such act of the petitioner or others as the case may be.
9. Investigation into such a case is very complex in nature and we are constrained to hold that custodial interrogation in such a case is very much necessary to reach at the root.
10. In view of such, we are not inclined to exercise our discretion under Section 438 Cr.P.C. in favour of the petitioner.
11. Accordingly, the prayer for anticipatory bail is rejected.
12. The application being **CRM (A) 4073 of 2023** is dismissed.
13. The observation made above is limited to disposal of this application.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)

