* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: July 07, 2023

% *Pronounced on: July 14, 2023*

\+ **BAIL APPLN. 999/2023**

AJAY KUMAR MANCHANDA ..... **Applicant**

Through: Mr. Nishit Kush, Mr. Mercy Hussain, Mr. Siddharath Sikri and Ms. Kirti Singh, Advocates.

versus

STATE OF DELHI ..... **Respondent**

Through: Mr. Utkarsh, APP for the State with Insp./SHO Rakesh Kumar, P.S. Kalkaji.
Mr. Pushkar Katyal, Mr. Amit Khanna and Ms. Nandini Hooda, Advocates for the complainant

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

% **JUDGMENT**

1. This is a bail application seeking grant of regular bail filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 being accused in FIR No.834/2021 dated 27.12.2021 registered at P.S.: Kalkaji, Delhi under Sections 420/408/120B of the Indian Penal Code, 1860.

2. The said FIR No.834/2021 was registered on 27.12.2021 for the alleged offence committed between June 2020 to October 2020. The applicant, since his arrest on 10.09.2022, is in judicial custody. Investigation qua the applicant is complete and the chargesheet has been filed. The previous bail application of the applicant was rejected vide the impugned order passed by the learned Additional Sessions Judge-02, South East, Saket

Courts, New Delhi on 03.03.2023.

3. The FIR involved arises out of a complaint lodged by the complainant against her ex-accountant-applicant qua online transfer of around Rs.3.5 Lakhs done by him from her State Bank of India[1] savings bank account as also of around Rs.39.59 Lakhs from her SBI Overdraft Account without her knowledge or consent to his own SBI savings bank account opened in the same branch as that of the complainant, and the Bank has already levied an interest of around Rs.3,00,000/- on the said overdraft and is continuing to charge interest from the complainant. As per FIR, the applicant also misappropriated money fraudulently transferred from the account of the complainant towards GST payments of third parties. As per the FIR, the applicant managed to carry on these transactions by changing all the personal and contact details of the complainant in the Bank with the help of an employee of the SBI bank. As per FIR, the applicant, pleading forgiveness, offered to transfer ownership of the Uttam Nagar property namely First Floor, 27A, Prem Nagar, to the complainant, but the same, still has not been done.

4. Learned counsel for the applicant submitted that the applicant has no antecedents and that he has been falsely implicated and all allegations made against him are vague and implausible. He states that it is hard to believe that the complainant was unaware of the aforesaid transactions being made from her accounts stretching over a period of five months. He further states that he could not have made any changes in the personal details submitted with the Bank without the prior written request of the account holder, i.e. the complainant, and thus the allegations against him are baseless. He also states that there is an inordinate delay of more than one year in registration

[1] Hereinafter referred to as "**SBI**"

of the FIR. Relying upon ***Arnesh Kumar v. State of Bihar***[2], and ***Satender Kumar Antil v. CBI***[3], he submitted that the applicant was arrested without following the mandate laid down therein. He lastly submits that in any event, as the present case involves documentary evidence, there is no scope of the applicant tampering with it and no recovery has to be affected from the applicant as the investigation qua him stands completed and the charge sheet has also been filed. He thus prays that he be released on regular bail till the completion of trial in the said FIR.

5. Notice was issued and the Nominal Roll and Status Report of the applicant were called for. The Nominal Roll filed thereafter shows that there are no other cases pending against the applicant and his overall conduct is satisfactory.

6. The State in its Status Report has opposed the grant of bail stating that the applicant had admitted the online transactions and after pleading forgiveness and as part compensation had also offered to transfer the ownership of the Uttam Nagar property even though it was not in his name. Learned APP for the State, supported by learned counsel for the complainant, submits that during investigation, bank accounts of the complainant and the applicant revealed transactions inter-se and that the applicant confessed of losing the cheated amount in multi-level marketing schemes after investing there and also disclosed about getting the personal mobile number of the complainant changed through one of the employees of the Bank. He further submitted that though the applicant contended that the personal details of the complainant could not be changed without her written request, enquiries from the Bank revealed no mandatory request therefor

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[2] (2014) 8 SCC 273
[3] (2022) 10 SCC 51

was available with the Bank. He further submitted that the applicant should not be released on bail as investigation regarding role of bank officials and disposal of cheated amount is still pending, and the complainant being a senior citizen, there is possibility that the applicant may threaten her when released on bail.

7. On consideration of the factual matrix and legal position involved and after hearing the counsel for the parties and perusing the documents on record, this Court is of the opinion that it is a fit case for releasing the applicant on bail.

8. As is evident from the record, the dispute involved herein is based on documentary evidence, there is hardly any scope of the applicant tampering with it. The applicant has been behind bars since 10.08.2022 for more than ten months and as the charges have yet not been framed in all likelihood the trial is going to take long. Needless to state, during the said period the applicant will remain behind bars.

9. In the considered opinion of this Court, keeping the applicant behind bars till such time will be impractical, more so, whence he is yet to be proven guilty. This Court finds that the investigation is underway and unhampered and where most of the material witnesses have since been examined. Most importantly, the Nominal Roll of the applicant reveals that not only the applicant has any antecedents and has a clean and an unblemished record while he was inside jail.

10. In view thereof, this Court deems it a proper case for grant of bail. The applicant is accordingly directed to be released on regular bail in FIR No.834/2021 dated 27.12.2021 registered at P.S.: Kalkaji, Delhi under Sections 420/408/120B IPC on his furnishing a personal bond in the sum of Rs.50,000/- along with one surety of the like amount by family member/

friend having no criminal case pending against them, subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

i. Applicant shall not leave the National Capital Territory of Delhi without prior permission of this Court and shall *ordinarily* reside at the address as per prison records. If he wishes to change is residential address he shall immediately intimate about the same to the Jail Superintendent by way of an affidavit.

ii. Applicant shall surrender his passport to the Investigating Officer, within three days. If he does not possess the same, he shall file an affidavit before the I.O. to that effect within the stipulated time.

iii. Applicant shall appear before the Court as and when the matter is taken up for hearing.

iv. Applicant shall join investigation as and when called by the IO concerned. He shall not obstruct or hamper with the police investigation and shall not play mischief with the evidence collected or yet to be collected by the Police.

v. Applicant shall provide all his mobile numbers to the I.O. concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the I.O. concerned. The mobile location be kept on at all times.

vi. Applicant shall report to the I.O. at P.S. Kalkaji once every month in the first week of the month unless leave of every such absence is obtained from the Ld. Trial Court.

vii. Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the victim or any member of the victim's family or tamper with the evidence of the case or try to dissuade them from disclosing such facts to the Court or to any police officials.

11. It is clarified that any observations made on the merits of the matter are only for the purposes of deciding the present application for grant of bail and they shall not be construed as expressions on merits of the matter.

12. Copy of the present order be sent to the concerned Jail Superintendent for onward information and necessary compliance thereof.

13. Accordingly, the present application is disposed of in the above terms.

SAURABH BANERJEE, J.

JULY 14, 2023
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