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

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Reserved on: 07.12.2023
Pronounced on: 22.12.2023

+ **BAIL APPLN. 3455/2023**

AKHILESH MISHRA

..... Petitioner

Through: Mr. K.K. Manan, Senior Advocate alongwith Ms. Udit Bali, Ms. Komal Vashisht, Mr. Rahul Khan, Ms.Saumya and Mr. Rahul Gautam, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Naresh Kumar Chahar, APP for the State with SI Nitin Singh, ARSC, Crime Branch.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present application has been filed under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') by the applicant seeking grant of regular bail in case FIR bearing no. 264/2022, registered at Police Station Crime Branch, New Delhi, under Sections 170/389/387/465/ 471/120B/34 of Indian Penal Code, 1860 ('IPC').
2. The present FIR was registered at PS Crime Branch, Delhi on the complaint of Sh. Vipul Kaushik, which he had filed on behalf of



Sh. Hardev Singh SB, who is the Industrial Unit President of Nippon Paint India Ltd. having its office in Mumbai and Vipul Kaushik is the channel partner of the company. In the complaint, Sh. Hardev Singh had alleged that on 08.11.2022, he had received two separate notices of Enforcement Directorate on his Whatsapp, one for his appearance and another for his colleague Kumar Hakim (who is the Director of procurement in the factory situated at Nippon Paint India - Mumbai), directing Hardev Singh and Kumar Hakim to appear before Enforcement Directorate officer Manoj Kumar Teekla in his office in Delhi on 14.11.2022. On 10.11.2022, the same notices had also been received by them via speed post. Hardev Singh had further alleged that on 05.11.2022, before receiving the said notice of the Enforcement Directorate, one Akhilesh Mishra (who is the supplier of solvents on commission basis in Nippon Paint India) had called Kumar Hakim and had told him that a big trouble was about to come over Hardev Singh however, he could help him to get rid of that trouble with the help of his contacts in Ministries. On 08.11.2022, Akhilesh Mishra had again called Kumar Hakim and confirmed about the trouble. On 10.11.2022, Hardev Singh had asked Kumar Hakim to meet Akhilesh Mishra in this regard. Thereafter, Kumar Hakim had met Akhilesh Mishra, who had demanded Rs. 2-3 crores to settle the matter and had also asked Kumar Hakim to arrange a meeting with Hardev Singh. On 11.11.2022, Hardev Singh had informed Enforcement Directorate, Delhi about the said notices through his friend Vipul Kaushik, and from the office of Enforcement Directorate, Delhi, Hardev Singh had come to know that the said



notices were fake. Accordingly, to catch the culprits red-handed, Hardev Singh had kept his conversation going on with Akhilesh Mishra and Darshan Harish Joshi (who is the buyer of mix solvents from Nippon Paint Ltd., Mumbai) to settle the matter. Akhilesh Mishra and Darshan Harish Joshi had told Hardev Singh that they have to visit Delhi to manage the matter at a higher level in the department, for which Hardev Singh has to bear their expenses and thus, Hardev Singh had arranged their flight tickets from Mumbai to Delhi and had also booked a room in Hotel The Ashok in Delhi.

3. On 14.11.2022, the Enforcement Directorate, New Delhi, had informed Crime Branch, Delhi that some individuals were attempting to extort money from a person, who lives in Mumbai, under the guise of being Enforcement Directorate officials. Thereafter, a raid was conducted at Hotel the Ashok, Chankyapuri, Delhi by Crime Branch, Delhi along with the officials of ED and a representative of the complainant i.e. Sh. Vipul Kaushik. During the raid, the accused persons Akhilesh Mishra, Darshan Harish Joshi, Vinod Kumar Patel, Dharmender Kumar Giri and Naresh Mahto were arrested. During the investigation, it was revealed that a person had arrived at the Ashok Hotel in a Ciaz car on which "Government of India" had been written. Accused Akhilesh Mishra, Darshan Harish Joshi, and Vinod Kumar had introduced him to Vipul Kaushik as the official of the Enforcement Directorate. The said person had impersonated himself as an officer of the Enforcement Directorate and had threatened the complainant to settle the matter or else he would get an arrest warrant issued against Hardev Singh. The accused persons had also disclosed



that the said fake ED officer and other accused persons were present at Gole Market, Delhi. A raid was conducted near Gole Market, Delhi, and accused persons namely Devender Kumar Dubey (who had impersonated himself as an ED officer), Asrar Ali and Vishnu Prasad were arrested. It was also revealed that one Gajendra @ Guddu had driven the Maruti Ciaz car to the Ashok Hotel with fake ED official i.e. Devender Dubey. Thereafter, Gajendra @ Guddu was arrested and the said Maruti Ciaz car bearing registration number HR 51 CG 8834, on which "Government of India" was written was also recovered and seized in the present case. On 15.11.2022, during the investigation, complainant Vipul Kaushik had further revealed that on 14.11.2022, after meeting with the fake ED official at the Ashok Hotel, Delhi, Akhilesh Mishra had threatened to kill him and Hardev Singh, if they did not pay the money. On the basis of this additional information, Section 387 of IPC was added in the present case. On 18.11.2022, during further investigation, accused Arun Kumar Singh was also arrested in the present case on the basis of disclosure statements made by the accused persons and Call Detail Records (CDR). During the investigation, call recordings were found in the mobile phone of Akhilesh Mishra, which revealed the active participation of Darshan Harish Joshi in this conspiracy.

4. After concluding investigation, charge-sheet was filed on 14.01.2023. The FSL report/result regarding the CCTV footage and mobile phones of the accused persons is still awaited and will be filed through supplementary charge-sheet.



5. Learned Senior counsel for the present accused/applicant argues that the applicant has been falsely implicated in the present case and there is no cogent evidence against the applicant. It is stated that apart from Section 387 of IPC, all other Sections invoked in the present case are bailable in nature and even the maximum punishment under Section 387 of IPC is seven years and therefore, the applicant is covered by the decision of ***Satender Kumar Antil v. CBI (2022) 10 SCC 51*** and ***Arnesh Kumar v. State of Bihar (2014) 8 SCC 273***. It is contended that the applicant was oblivious to the conspiracy by planned by his senior officials as he was sent to Delhi for official business. It is also stated that the applicant's health condition is not stable and his sugar level are extremely high. It is further submitted that the investigation in the present case is complete, chargesheet has already been filed and, therefore, the custody of the present accused/applicant is no more required. Therefore, it is prayed that the applicant be enlarged on regular bail.

6. Learned APP for the State, on the other hand, argues that the applicant was apprehended from Ashok Hotel in the raid conducted on 14.11.2022 and he along with co-accused Darshan Joshi had proposed a settlement to the complainant saying that they could get the matter resolved for which they had earlier demanded a sum of Rs. 2-3 crores and later Rs. 15-20 crores. It is stated that the present applicant is the main conspirator who had initiated this conspiracy, and he had introduced the complainant to the fake ED Officer at the Ashok Hotel. Therefore, it is prayed that the present bail application be dismissed considering the seriousness of the allegations.



7. This Court has heard arguments addressed on behalf of both the parties, and has perused the material on record.

8. In the present case, there are specific allegations against the accused persons of impersonating as officer of Enforcement Directorate and extortion of money by extending threats of implication in a false case to the complainants.

9. A perusal of record and chargesheet reveals that there are conversations between the applicant Akhilesh Mishra and co-accused Darshan Harish Joshi which reveal the active participation of applicant in the entire conspiracy. The conspiracy in the present case had started when after sending fake ED notices to Hardev Singh and Kumar Hakim, the present applicant had called the Hardev Singh and demanded Rs. 2-3 crores to settle the matter. The present applicant had travelled from Mumbai to Delhi, to commit the offence in question, and had stayed in a hotel in Delhi, details of which have been mentioned in the chargesheet. The applicant alongwith co-accused had also introduced the fake officer of ED to the complainant who had threatened him to pay the amount. It was the applicant and the co-accused Darshan Harish Joshi who had told the complainant to settle the matter by paying Rs.15-20 crores to them, and had threatened him with dire consequences in case of failure to make the payment. The police had arrested the applicant from the spot i.e. hotel in question, while negotiating with the complainant Vipul Kaushik. The room in hotel, from which three other-accused persons were arrested, had been booked in the name of applicant Akhilesh



Mishra. CCTV footage also reveals that the accused was present in the hotel in question at the time of commission of alleged offence.

10. Thus, the present case is a case of criminal conspiracy hatched by all the accused persons in furtherance of their common intention to extort money from the Hardev Singh and Kumar Hakim, who were President and Director of Nippon Paints India-Mumbai respectively and having, therefore, worked towards the same by making phone calls, meeting the complainant and other facts enumerated in the preceding paragraphs. This Court is of the opinion that the allegations against the accused persons are serious and grave in nature. Furthermore, since the money was being taken in the name of Enforcement Directorate on pretext of getting them exonerated from fictitious case which was never registered, and fake summons allegedly issued by ED were also prepared and issued by the accused persons in furtherance of their common intention, this Court finds no ground for grant of bail, at this stage, as the trial is yet to commence.

11. Accordingly, the present bail application stands dismissed.

12. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 22, 2023/zp