

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:06.01.2023

+ BAIL APPLN. 3743/2022

BABLU MORESHWAR LAWATRE Applicant

versus

THE STATE (GOVT. OF NCT OF DELHI) Respondent

Advocates who appeared in this case:

For the Applicant : Mr. N.S. Dalal, Mr. Devesh Pratap, Mr. Alok Kumar & Ms. Rachna Dalal, Advocates.

For the Respondent : Ms. Priyanka Dalal, APP for the State alongwith Inspector Sanjay Kumar Gupta, ICS Crime Branch.

**CORAM
HON'BLE MR. JUSTICE AMIT MAHAJAN**

JUDGMENT

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 (**CrPC**) seeking regular bail in FIR No. 111/2022 dated 21.06.2022, under Sections 170/419/420/468/471/120B of the Indian Penal Code, 1860 (**IPC**) and Sections 66C/66D of the Information Technology Act, 2000 (**IT Act**), at police station Crime Branch.

2. The FIR was registered on a complaint given by one Mr. S. K. G. Rahate, Additional Secretary, Government of India, Ministry of Power.

3. It was alleged that the forged documents were received by the Ministry showing that the false claim has been made by a firm named M/s Goldcoat Solar, that it has been allowed to construct a solar power plant. No such contract was awarded to any company by the name of M/s Goldcoat Solar and documents were forged.

4. On an investigation being carried out, it was revealed that the WhatsApp message which was received by the Ministry was sent from a mobile phone having an IP Address at Hong Kong. It was revealed that the telecom company had unlawfully issued 1700 SIM cards in connivance with one lady of Chinese origin. The said SIM cards were recovered from the possession of one Mohd. Qasim.

5. It was further revealed that a fraudulent scheme in the name of production of renewable energy was being floated and money was cheated by alluring many people who invested in the said scheme. The money went to the accounts of different persons and was ultimately transferred into the account of one HB Group, Nagpur.

6. The accused / applicant is stated to be the Director of the said HB Group.

7. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

8. He submits that only because some amount has been shown to have been received in the company belonging to the applicant, it

cannot be presumed that any alleged cheating or forgery has been committed by the applicant.

9. He submits that even as per the investigation, the amount was deposited in the accounts of different persons who in turn transferred the same into the account of HB Group. HB Group provides financial services to different people and only because the persons, who are alleged to have received the cheated amount, have invested in the company belonging to the applicant, will not make the applicant a co-accused.

10. He further submits that the applicant is in custody since 09.11.2022 and does not have any criminal antecedent's and is willing to deposit his passport with the Trial Court in order to show his *bona fide*.

11. It is further stated that the applicant is physically disabled to the extent of 78% and his wife is also physically disabled to the extent of 80% and cannot move without the help of wheelchair. The applicant also has a girl child aged 18 months. The mother of the child, being also differently-abled, it has almost become an impossibility to take care of the minor child.

12. Learned APP for the State opposes the grant of any relief to the applicant. She submits that the cheated amount of ₹1 crores was admittedly credited into the account of HB Group. The accused was arrested from the Delhi IGI Airport when he was trying to flee away

from the country and at that time 55 activated SIM cards were recovered from his bag.

REASONING

13. The applicant was arrested on 09.11.2022. The Investigating Officer, on being asked, stated that the chargesheet is likely to be filed before the expiry of 60 days, that is, on or before 08.01.2023. The investigation as on today, therefore, is substantially complete.

14. The allegation made against the applicant is essentially that the money has been deposited in the account of HB Group which belongs to the applicant. The money admittedly went to the accounts of different persons who then transferred the money into the said account belonging to Hon'ble Group. The account in which the money was deposited has already been frozen.

15. The alleged money trail would be the matter of record and is documentary in nature. Moreover, any further investigation with regard to the same does not in the facts of the case require custodial interrogation.

16. The Court while hearing the application for grant of bail has to ascertain if the accused satisfies the triple test, that is, whether he is a flight risk, likelihood of tampering with the evidence and influencing the witnesses. It has been held time and again that the grant of bail is rule and refusal is an exceptional so as to ensure that the accused has an opportunity of securing the fair trial. It is not in dispute that the

gravity of the offence has to be kept in mind while considering the application for grant of bail. The offence(s) alleged against the applicant carries a maximum sentence of 7 years.

17. Even though, it is stated that the applicant was arrested while attempting to flying out of the country, it is not disputed that the applicant was not arrested from the Airport, but at the time of arrest, he was lodged in a hotel. Moreover, the apprehension can be taken care by putting appropriate conditions.

18. It is not disputed that not only the applicant but his wife is also physically disabled to the extent of 78% and 80% respectively and cannot move without the help of wheelchair. It is also not in dispute that the applicant has a minor girl child aged about 18 months.

19. The allegation has been made that the accused / applicant was found to be in possession of 50 SIM cards. The said allegation is disputed by learned counsel for the applicant, who submits that the veracity can be verified by perusing the CCTV footages. He further submits that there is no independent witness to verify the recovery of 50 SIM cards and the same were planted on the applicant. The allegation would be tested at the time of trial.

20. Without considering further, the merits of the case and keeping in mind the peculiar fact of the case, that is the disability of the applicant and his wife to the extent of 78% and 80% respectively and the fact that he has a girl child aged 18 months, I am satisfied that the applicant has made out a case for grant of regular bail on furnishing a

bail bond in the sum of Rs.1,00,000/- with one surety of the like amount to the satisfaction of the learned Trial Court / Duty Magistrate subject to the following terms and conditions:

- a. He shall under no circumstance leave the city;
- b. He shall join and cooperate in further investigation as and when directed by the IO;
- c. He shall upon his release give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times and shall report to the IO every morning at 10.00 A.M. over a phone call;
- d. He shall drop a pin on the google maps application to indicate his location to the concerned IO/SHO;
- e. He shall surrender his Passport before the learned Trial Court;
- f. He shall not contact any witnesses in any manner or tamper with the evidence in any manner.

21. The State is at liberty to file an application for cancellation of the bail in case the applicant is found to be violating any of the conditions mentioned above.

22. The application is allowed in the above terms.

23. It is made clear that any observations made in the present order are only for the purpose of deciding the present bail application and should not influence the outcome of the trial.

AMIT MAHAJAN, J

06.01.2023

KDK/SK