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

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Reserved on: 08.02.2023

Pronounced on: 13.02.2023

+ **BAIL APPLN. 3856/2022**

VINEET JHAVAR

..... Petitioner

Through: Mr. Devendra Kejariwal, Mr. Chirag Khurana, Ms. Arpita Bhattacharya and Mr. Rohit Kumar, Advocates alongwith Ms. Aditi Nougaharia, wife of petitioner

versus

STATE

..... Respondent

Through: Mr. Manoj Pant, APP for the State with IO SI Manoj Kumar, P.S. Special Cell

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant application under Section 439 of the Code of Criminal Procedure ("Cr.P.C"), 1973 has been filed by the applicant seeking grant of regular bail in FIR bearing no. 129/2022 registered at Police Station ("P.S.") Special Cell for the offences punishable under Sections 420/384/385/468/471/120B of Indian Penal Code, 1860 ("IPC").

2. The present FIR emerges from a complaint lodged by one

Rohan Kapoor wherein it was stated that he had received SMS messages for loan for 3rd Covid-19 vaccine dose on his mobile phone, and the SMS also had a link for checking eligibility. As soon as the complainant clicked the link, one mobile application (App) namely, Express Loan got downloaded. When the complainant filled the details of his Aadhar Card and PAN Card in the App after installing it, a sum of Rs. 4,200/- was instantly credited in his bank account. However, after four days of getting/availing such loan, he started receiving threatening calls from the developers of Express Loan App. It was further stated by the complainant that Express Loan App developers somehow had access to the contacts stored in his mobile phone and to threaten the complainant, the accused persons started sending morphed images to his contacts. During the course of inquiry, the complaint against Express Loan App was checked on the National Cyber Crime Reporting Portal and 46 more complaints were found to be registered against the alleged mobile App and thus, the present FIR bearing no. 129/2022 was registered at Police Station Special Cell for the offences punishable under Sections 420/384/385/468/471/120B of IPC. Upon investigation, another complainant namely, Aditya Sharma reported that a sum of Rs. 25 lakhs had been extorted from him in different accounts by the accused persons by morphing his images and sending to his relatives. During course of investigation, bank statement of complainant Aditya Sharma revealed that via a link mentioned in the complaint, transaction amount was received by the present accused/applicant namely Vineet Jhavar in his bank accounts. The details of such

payments with transaction numbers is mentioned in the Status Report.

3. It is the case of prosecution that a total amount of Rs. 2,11,873/- has been received by accused Vineet Jhavar in his bank accounts. The account details and transaction details are mentioned in the Status Report. It is also the case of the prosecution that the accused/applicant had, thereafter, left his last address used for opening the bank accounts which was rented. The applicant was traced through rigorous Call Detail Records (“CDR”) and IP logs analysis as he had also switched off all the mobile phones used for opening the bank accounts, and he was arrested on 01.10.2022. It is stated that the investigation reveals that the total amount of transactions in the entire case, considering the bank account of all the persons who had worked in furtherance of their criminal conspiracy, is Rs. 140 Crores. It is also stated by the investigation agency that money had also been transferred to further bank accounts. The trail of money of several victims received by the present applicant transferred to other accounts is mentioned on page no. 6 of the Status Report.

4. Learned APP for the State submits that the prime accused and kingpin namely Zuhaib Hussain, who was threatening the *de-facto* complainant, was the first person who was arrested in last week of July, 2022 after conducting raids in Lucknow, has been granted regular bail *vide* order dated 13.10.2022 by the learned Sessions Court citing the main reason that charge-sheet stands filed qua him. It is also stated that since some of the accused persons namely Zuhaib

Hussain, Anil Kumar Chahar and one Yu Zhang were behind bars, charge-sheet against them were duly filed in time and the co-accused persons have been granted regular bail on the ground that the charge-sheet had been filed and no useful purpose will be served, and that the trial shall take time coupled with the ground of parity. It is also averred that further investigation regarding other beneficiary bank accounts and mobile phones spread across various States is still being carried out by the Special Cell of Cyber Crime Unit.

5. Learned counsel for accused/applicant states that the applicant is a sole earning member of the family and co-accused persons had already been granted bail in this case. It is also stated that the statement of Chartered Accountant is of no value for the prosecution. It is also stated that even the charge-sheet mentions that only Rs.2,11,873/- were received by the present applicant and there is no alleged financial benefit or withdrawal by the applicant herein. It is also stated that entire amount alleged to have been used in the transactions has also been seized by the police and nothing is to be recovered from the present applicant.

6. I have heard both the parties and have perused the material placed on record.

7. A perusal of material on record, *prima facie* reveals that the *modus operandi* adopted by the present applicant/accused was that once the App was downloaded in the mobile phone by the victims, they were baited by the accused with grant of loan and once they accepted the conditions, the victims unknowingly gave access to all their contacts and images to the accused/App developers. Thereafter,

the victims were threatened by the accused and the morphed images of the victims were shared with their contacts to extort money from them. Large numbers of complaints have already been reported from across the country in which the present accused/applicant has been found involved. The account numbers and the transaction details are also mentioned in detail in the status report filed by the prosecution which has not been denied by the learned counsel for applicant. The conduct of applicant with regard to vacating the rented premises i.e., the address and leaving all the addresses used for opening bank accounts, points out that he wanted to escape law and he was apprehended only after rigorous CDR and IP logs analysis by Special Cell. The prosecuting agency was able to arrest him, but the task was difficult since he had already switched off all his mobile phones used for opening the bank accounts. It is also clear from the record as placed before this Court that applicant is also involved in two other cases of similar nature and several other complaints are still being received against him. The total amount which has been found to be forming entire transaction of the money extorted from people after sending their morphed images to their contacts and blackmailing them runs into Rs. 140 crores.

8. It is seen that *modus operandi* of cyber criminals is changing every day. This Court cannot remain immune to the sufferings of innocent people who download such mobile applications and are thereafter, cheated of their hard earned money. More saddening is the fact that people are not aware that once they give access to their contacts and images to an App which they download, the App

Developer in case of being a criminal, misuses the images of the concerned person, morphs them and sends them in inappropriate form to their social contacts and thereafter, blackmails them. The personal details of the innocent people are also being taken and misused for committing fraud, as in the present case.

9. The Courts also have to remain conscious of the social context in which the crime is committed and how it impacts the society. The same needs to be kept in mind while granting bail to an accused. The offences, as the present one, are impacting the society at large, especially the poor and at times those who are not well-versed with the emerging cyber crimes, which are changing and are rising in innovative form on a daily basis. In case such criminals are not dealt with heavy hand and are again enlarged on bail while there is material on record at this stage to show that transactions have taken place from their mobile phones or computers and inappropriate morphed images of such duped persons have been sent to their contacts and they have been blackmailed, it may send wrong signal to the society that such offences can be committed and one can get away with these easily.

10. In these circumstances, this Court, without going into much detail as to how these offences should be dealt with a stern hand, finds it a case which is not fit for grant of bail. Being at the stage of investigation itself and also keeping in mind the conduct of the present applicant of taking premises on rent, having used that residential address for obtaining sim cards and opening bank accounts, misusing them for duping people at large and then

absconding for considerable period before being arrested by the investigating agency, the bail application stands rejected.

11. Accordingly, the present application stands dismissed.

12. It is however, clarified that the observations made by this Court are only for the purpose of deciding the present application and shall have no bearing on the merits of the case during the trial.

SWARANA KANTA SHARMA, J

FEBRUARY13, 2023/zp



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