$~52

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

% ***Date of decision: 02.02.2024***

\+ **BAIL APPLN. 387/2024**

AJIT @ PRAVEEN KUMAR MISHRA ..... Petitioner

Through: Mr. Amit Kumar Rohela, Advocate

versus

STATE (GNCT OF DELHI) ..... Respondent

Through: Mr. Amol Sinha, ASC for the State

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. *(ORAL)*

CRL.M.A. 3324/2024 (exemption)

1. Allowed, subject to all just exceptions.

2. Application stands disposed of.

BAIL APPLN. 387/2024

3. The instant application under Section 439 of the Code of the Criminal Procedure, 1973 (*'Cr.P.C.'*) has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 38/2023, registered at P.S. Cyber Police Station West, Delhi for the offences punishable under Sections 419/420/468/471/120B/34 of the Indian Penal Code, 1860 (*'IPC'*).

4. Brief facts of the present case are that a case was registered on a complaint of one Ms. Shobha Talwar regarding a cyber fraud having been committed upon her, on the allegations that she had received a call on her mobile number on 28.03.2023 from a person who had introduced himself as Rajdendra Prasad and had offered to provide insurance policy. It is alleged that he had asked her to deposit various amounts in a particular HDFC Bank account in the name of co-accused Vipin, from 28.03.2023 till 04.05.2023. Thereafter, another person namely Narayan Acharya had started making calls from a particular number demanding money on on pretext or the other, and during May, 2023, various amounts were paid by her in cash to his representative named Sourabh, however, he had told her that the receipts shall be provided later. The total amount paid by the complainant was approximately Rs. 40 lakhs. It is alleged that towards settlement of the policy, they had issued a cheque for Rs.65,70,000/- drawn on her account but the cheque was dishonoured on 24.04.2023 with remarks *"Account Blocked... situation covered in 21-25"*. The FIR was registered on the complaint and during investigation, six accused persons were arrested including the present applicant. Out of six accused persons, five are already on bail.

5. Learned counsel for the applicant argues that the co-accused persons have already been granted bail and there is no admissible evidence available against the accused to connect him with the offence in question. It is stated that the applicant was arrested in the present case on 06.07.2023 on the basis of false disclosure statement of the co-accused persons and was then sent to judicial custody after

two days police remand on 08.07.2023, and since then, he has been languishing in judicial custody. It is argued that the alleged recovery made from the applicant has nothing to do with the present case, and there is nothing on record to show that applicant has induced/ deceived the complainant in any manner whatsoever, or that he had indulged in any act of forgery. Therefore, it is prayed that the applicant be granted bail.

6. Learned APP for the State, on the other hand, argues that the material recovered from the possession of the accused in itself is incriminating and there is sufficient evidence against the applicant to prove that he has committed the offence in question which is serious in nature and, therefore, the application for grant of regular bail be rejected.

7. This Court has heard arguments addressed by learned counsel for the applicant as well as learned APP for the State and has perused the material available on record.

8. In the present case, as per chargesheet filed by the prosecution, it was revealed during the course of investigation that accused co-accused Abhishek had prepared fake PDF documents at the behest of and greed given by co-accused Aman Shrivastava, which was sent to the complainant by co-accused Aman Shrivastava. Aman Shrivastava had got this document prepared from Abhishek, at the behest of co-accused Vipin. Co-accused Vipin had given his documents i.e. Aadhaar and PAN card to co-accused Himanshu, on which the alleged bank accounts had been opened in HDFC and Equitas Finance bank, wherein payment was initially received from

the complainant. Both these accounts were opened by co-accused Himanshu and present applicant Ajit @ PK Mishra as a part of well-planned conspiracy, by changing the address on Vipin's Aadhaar card so as to avoid getting caught. Address given on both the accounts was is not traceable. The calls received to the complainant regarding cheating, IRDA officer’s i-card and HDFC Bank account details of co-accused Vipin were received through a mobile number, on which photo of co-accused Himanshu was affixed and the name and address was written of a person named Suraj Singh. On inquiry it was found that the present applicant Ajit @ PK Mishra had resided at this address on rent. Original Aadhaar card and PAN card of co-accused Vipin were recovered from the possession of co-accused Himanshu. It is alleged that the applicant herein makes fake Aadhaar Cards and uses the same for the purpose of getting SIM cards as well as bank accounts opened, and co-accused Himanshu supports him in these acts, and thereafter, these accused persons deceive people and ask them to deposit money in such bank accounts, which is then withdrawn from ATMs.

9. During further investigation and report filed by the I.O. regarding queries raised by the learned Trial Court, the I.O. had reported that the 12 bank stamps of different banks, one date stamp, 2 stamp pads, 14 bank passbooks and cheque books and plastic cards were recovered from the possession of the present accused/applicant, and notice had been sent to the concerned banks regarding the details of the owner of the recovered passbooks, cheque books and plastic cards, which are still awaited. It was also reported that six cases of

similar nature are pending against the present accused/applicant *inter alia* under Sections 420, 467, and 468 of IPC, in Uttar Pradesh. Further, it is reported by the I.O. that the staff of HDFC Bank and Equitas Bank had informed that the bank account in this case was opened on the basis of documents of account holder Vipin, however, during investigation, it was found that the address of Vipin's Aadhar Card had been changed/fabricated by the present accused/applicant. Moreover, the record reveals that the applicant herein has a different role than the co-accused persons as he is also involved in six cases of similar nature such as the present one and he is also found in possession of material as stated above. The FSL report in this case is still awaited regarding the change and forgery in address on the Aadhar Card of Vipin. The photo of cheque leaf obtained from the cheque book, which was issued on the bank account of Vipin, was shared between the present applicant and co-accused Himanshu through WhatsApp, and the same has been recovered from his mobile phone.

10. The present offence is an offence committed upon an innocent woman by misguiding her. Such offences are on a rise and the accused persons who cheat and commit forgery must be dealt with a stern hand, as they cheat innocent persons who are not well-conversant with online transactions and as to what safeguards they should follow as well as entering into such transactions.

11. In view thereof, considering the overall facts and circumstances of the case and the fact that the charge is yet to be framed, the accused having been involved in six other cases of

similar nature since 2013 till date and habitually indulging himself in cases of cheating, this Court is not inclined to grant bail to the present accused/applicant, at this stage.

12. Accordingly, the present bail application stands dismissed.

13. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 2, 2024/zp