



\$~13 & 14

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

+ **BAIL APPLN. 927/2024**

BIRBAL KUMAR MANDAL

@ BIRBAL MANDAL

..... Applicant

Through: Mr. Naveen Chauhan,
Adv. (through VC)

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through: Mr. Mukesh Kumar, APP
for the State with Mr.
Mukesh Gupta, Adv. with
SI Mohit Kr, Cyber PS /
NE Delhi.

+ **BAIL APPLN. 945/2024**

KANHAIYA KUMAR MANDAL

@ KANHAIYA MANDAL

..... Applicant

Through: Mr. Naveen Chauhan,
Adv. (through VC)

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through: Mr. Mukesh Kumar, APP
for the State with Mr.
Mukesh Gupta, Adv. with
SI Mohit Kr, Cyber PS /
NE Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

24.04.2024

%

1. The present applications have been filed under Section 438 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of pre-arrest bail in FIR No. 51/2023 dated 21.12.2023 registered

BAIL APPLN. 927/2024 & BAIL APPLN. 945/2024

Page 1 of 4



at Police Station Cyber Police Station North East for offences punishable under Sections 419/420 of the Indian Penal Code, 1860.

2. The FIR, in the present case was lodged at the behest of the complainant who alleged that on 05.10.2023, he received call from some unknown persons who impersonated themselves to be employees of SBI Bank. They told the complainant about his FD in the bank to win his trust and the complainant followed their instructions whereafter, he found his phone had been remotely reset and he started receiving texts that ₹3,08,716/- had been debited from his account through six transactions.

3. During investigation, the location of the mobile numbers used in the alleged offence was found in Jamtara, Jharkhand. Subsequently, information was received that the applicants along with two other accused persons namely– Tajmul Ansari and Najir Ansari are in custody in Jamtara Jail in relation to FIR No. 60/2023 and two accused persons namely – Kalim Ansari and Ahsan Ansari escaped during the police raid.

4. On analysis of the seizure memo of the case arising out of FIR No. 60/2023, it was found that the IMEI and the phone number of the recovered mobile phone from the accused – Tajmul Ansari (in FIR No. 60/2023) matched with the alleged mobile IMEI and phone number of the subject case FIR, which was used in the alleged offence. It was also found that another mobile phone was recovered whose IMEI and phone number having JIO SIM in the name of the accused – Kalim Ansari matched with the alleged mobile IMEI and phone number of the subject case FIR. Thereafter, the accused persons in case FIR No.60/2023 were interrogated at the Jamtara Jail, Jharkhand and only accused – Tajmul Ansari was arrested in the present case on

BAIL APPLN. 927/2024 & BAIL APPLN. 945/2024

Page 2 of 4



21.03.2024 from Karkardooma Courts, Delhi when produced on production warrant.

5. The learned counsel for the applicants submits that the Investigating Officer in the present case has interrogated the applicants while they were in judicial custody in Case No. 60/23.

6. He submits that the applicants have already been enlarged on regular bail by the High Court of Jharkhand at Ranchi by orders dated 19.02.2024 and 25.01.2024 respectively. However, their bail bonds were not accepted since they were required for investigation in the present case.

7. He further submits that the applicants, if released on bail would cooperate and join further investigation as and when required in the present case.

8. The learned Additional Public Prosecutor for the State submits that the applicants were interrogated on 16.03.2024 and their custodial interrogation is not required at this stage.

9. The applicants have undergone interrogation, and it is not the case of the prosecution that they have either absconded, refrained from participating in the investigation, or failed to cooperate therewith. The Status Report filed by the State also indicates that no further custody/arrest is required in the present case *qua* the applicants. Moreover, the applicants have been granted bail under FIR No.60/2023 by the High Court of Jharkhand at Ranchi on the ground that one is a daily wager and the other a student, both possessing unblemished antecedents.

10. The purpose of custodial interrogation is to aid the investigation and is not punitive.

11. In view of the above, the applicants, in the event of arrest in FIR No. 51/23, are directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- each with one

BAIL APPLN. 927/2024 & BAIL APPLN. 945/2024

Page 3 of 4



surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- i. The applicants shall not indulge in any other criminal activity;
 - ii. The applicants shall join and cooperate with investigation as and when directed by the concerned Investigating Officer;
 - iii. The applicants shall not leave the country without the permission of the learned Trial Court;
 - iv. The applicants shall not contact the complainant or tamper with the evidence in any manner;
 - v. The applicants shall give their mobile numbers to the concerned IO/SO and shall keep their mobile phones switched on at all times.
12. In the event of there being any FIR/DD entry / complaint lodged against the applicants, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.
13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail applications and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.
14. The present applications are allowed in the aforesaid terms.
15. A copy of this order be placed in both the matters.

AMIT MAHAJAN, J

APRIL 24, 2024

'KD'