



\$~68

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

Date of Decision: 19.03.2024

+ **BAIL APPLN. 1004/2024**

PANKAJ GUPTA

..... Petitioner

Through: Mr. Anurag Jain & Mr. Ravi
Prakash, Advocates.

versus

STATE(GOVT. OF NCT OF DELHI)

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with Inspector Ajay Kumar,
P.S. IGI Airport..

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. (ORAL)

CRL.M.A. 8764/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 1004/2024

3. The present bail application under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by the applicant seeking anticipatory bail in case FIR bearing no. 98/2024, registered at Police Station IGI Airport, Delhi, for offence punishable under Section 420 of the Indian Penal Code, 1860 ('IPC').
4. Brief facts of the case, are that on 30.01.2024, three passengers



namely Suhail Ansari, Aman and Shoaib Alam, who were scheduled to depart for Dubai, were randomly searched at the departure gate and 90 Indian activated SIM Cards were found in the bag of accused Suhail Ansari. The SIM Cards were taken into possession under Section 103 of the Delhi Police Act. On enquiry from the passengers, it was revealed that these SIM Cards were given by a person namely Mohit Jain. All of those cards were found to have been issued by a telecom shop from Badgaon, Sharanpur, U.P. owned by one Govinda. On inquiry from the subscribers it was revealed that Govinda had allured them to take these SIM Cards for free to use for internet and calls for one month and to return thereafter. Govinda undertook to destroy these cards. As per investigation, Govinda had collected these cards with dishonest intention and had sold these cards to a person namely Dheeraj Gupta for a sum of Rs.18,000/-. The accused Govinda was arrested and he had disclosed that he was introduced to Dheeraj Gupta by Amit Babbar and had delivered these SIM cards to Dheeraj Gupta. The accused Amit Babbar and Dheeraj Gupta were also arrested as they were involved in sale and purchase of VIP phone numbers. Thereafter, the present applicant/accused had asked co-accused Dheeraj Gupta to arrange 60 to 70 activated SIM cards on the pretext of using it for promotional purpose for his garment business. The accused Dheeraj Gupta had arranged these activated SIM Cards from co-accused Govinda and had delivered to the present applicant/accused Pankaj Gupta in lieu of Rs.1,06,800/-. The money was transferred in his father's account from an account of Aurangabad, Bihar, which is yet to be verified.

5. Learned counsel for the applicant argues that there is nothing on



record to connect the present accused with the offence in question, and that he is ready to join the investigation as and when required by the Investigating Officer concerned. It is argued that from the perusal of the status report filed by the police, it is evident that the three accused passengers who were allegedly apprehended at the Airport were not arrested and further three more accused persons namely Govinda, Amit Babbar and Dheeraj Gupta have already been released on bail. It is further argued that from the contents of the status report, it is evident that there is no incriminating evidence against the applicant except the disclosure statement of the co-accused. Further, it is not the case of the prosecution that further recoveries have to be effected from the applicant. Thus, it is prayed that the present applicant/accused be granted anticipatory bail.

6. Learned APP appearing on behalf of the State, on the other hand, argues that in the present case, custodial interrogation of the present accused is required, since 90 SIM cards which were being sent to Dubai, were recovered from three persons namely Suhail Ansari, Aman and Shoaib Alam. It is argued that the present applicant/accused is the last person in the chain of conspiracy which has been revealed during the course of investigation till date. It is argued that present applicant/accused Pankaj Gupta's anticipatory bail application is being strongly opposed on the grounds that granting him bail may hinder the investigation, potentially preventing the truth being revealed regarding the use of 90 SIM cards from being uncovered.

7. This Court has heard arguments addressed by learned counsel for the applicant/accused and learned APP for the State, and has perused



material on record.

8. This Court notes that the present applicant/accused Pankaj Gupta is accused of being involved in a conspiracy to obtain and use a large number of activated SIM cards for undisclosed purposes. He had allegedly requested co-accused Dheeraj Gupta to procure 60-70 activated SIM cards, on the pretext of sending promotional SMSes for his garments business. Co-accused Dheeraj Gupta, in turn, had approached Amit Babbar for the SIM cards, who had directed him to Govinda. A verbal deal was struck between Dheeraj Gupta and Govinda, resulting in Govinda delivering 90 activated SIM cards to co-accused Dheeraj Gupta in exchange of Rs. 18,000 *via* UPI payment mode. The co-accused Dheeraj Gupta had then disclosed that he had delivered these SIM cards to the present applicant/accused Pankaj Gupta in Ajit Nagar, and had received Rs. 1,06,800/- in his father's account in return. The source of this transferred amount from Aurangabad, Bihar, is yet to be verified. The investigating agency had then conducted raids at the residences and factory of Mohit Jain and Pankaj Gupta, both of whom are currently absconding.

9. Thus, considering that the offence in question was committed not by one but by many accused persons including the present applicant in conspiracy with each other, and it will only be on interrogation of each accused person, or on their arrest, that their role will be disclosed by the other co-accused(s). Therefore, whether the role of the present accused was disclosed by Dheeraj Gupta at a little later stage than the first arrest made in this case, will lose its importance in the backdrop of the fact that it is a case of criminal conspiracy. The very allegation and the fact



of 90 SIM cards activated in India which were being sent to Dubai by dubious means were recovered from co-accused persons, who are connected to each other on the basis of their disclosures or recoveries raises an important question which needs investigation, as to for what purpose these 90 SIM cards activated in India were being sent to Dubai.

10. Considering the aforesaid, this Court is also of the opinion that the custodial investigation of the present accused/applicant may be required in ascertaining the chain of people and the purpose of persons involved in the commission of the present offence. It is also noted that the present applicant/accused has still not joined the investigation. Therefore, no ground for grant of anticipatory bail is made out.

11. Accordingly, the present bail application stands dismissed

12. It is also clarified that nothing expressed hereinabove shall tantamount to expression of opinion on the merits of the case.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MARCH 19, 2024/at