$~7

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

\+ BAIL APPLN. 1178/2024

WANG GUANG ..... Applicant

Through: Mr. Mohit Mathur, Sr. Advocate alongwith Abhir Datt, Mr. Anurag Rawal, Mr. Debayan Gangopadhyay, Mr. Suryaketu Tomar & Mr. Ankit Chaudhary, Advocates.

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Pradeep Gahalot, APP for the State alongwith Mr. Tarun Thakur, Mr. Hitesh & Mr. Ashish, Advocates & Inspector Sanjay Kumar Gupta & SI Rakesh Kumar (P.S. Crime Branch, New Delhi).

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% 21.05.2024

1. The present petition is filed under Section 439 read with Section 48l of the Code of Criminal Procedure seeking regular bail in FIR No. 111/2022 registered at police station Chanakyapuri Crime Branch, New Delhi for offences under Sections 170/419/468/420/471/120B of Indian Penal Code, 1860 (IPC), under Sections 66C/66D of Information Technology Act, 2000 and Section 14 of the Foreigner Act, 1946.

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 when no such contract was awarded to any company by the name of M/s Goldcoat Solar.

4. It was alleged that on 21.06.2020, a forged document was received by the Ministry of Power claiming that M/s Goldcoat Solar was granted the right to complete the government's energy plan. The document projected GoldCoat Solar as a platform for people to participate in the renewable energy plan, with the intent to defraud. The document used scanned signatures of an individual named Anil Kumar and wrongly mentioned the name of the Minister of Power, Shri R.K. Singh, as Secretary, Government of India. It was alleged that the Ministry received the complaint and initiated an investigation, which led to the registration of the present FIR.

5. It was alleged that the Ministry provided domain details of GoldCoat Solar, registered on GoDaddy, and a request was made to GoDaddy for more information. A screenshot of a WhatsApp group, where the forged letter was circulated, was provided by the complainant.

6. Three mobile numbers were identified from the WhatsApp screenshot. It is alleged that WhatsApp provided the last seen details and IP address for the mobile phone which is traced to Hong Kong.

7. During the investigation, notices were sent to nodal officers for CDR of the identified mobile numbers. The first

number was found to be registered in the name of Mohammad Gufran, and the second number in the name of co-accused Laldev Yadav and third number in the name of co-accused Mainajar Yadav. Mohammad Gufran stated that he had never taken the SIM card number and that his ID was used without his knowledge.

8. It is alleged that co-accused Mainajar Yadav came into contact with a person named co-accused Lobhika, who claimed to be the owner of Solar Goldcoat and offered investment opportunities in the project.

9. It is alleged that co-accused Mainajar Yadav deposited ₹400 on 21.03.2022 via a link sent by co-accused Lobhika and was added to a WhatsApp group named "796 Solar Goldcoat." It is alleged that co-accused Mainajar Yadav realized he was being cheated and left the WhatsApp group, but he had taken screenshots of the transactions. The mobile phone of co-accused Mainajar Yadav was seized, and his statement was recorded under Section 161 CrPC.

10. It is alleged that co-accused Mohd. Atif, a Sales Manager with Vodafone/Idea, was interrogated and admitted to issuing SIM cards under pressure to meet targets, including the fraudulent issuance of SIM cards. It is alleged that co-accused Mohd. Qasim, a team leader at Vodafone/Idea, was involved in issuing extra SIM cards and providing them to a Chinese lady named Coco.

11. During the Course of further investigation, accused persons provided the mobile number +83613190777725 of a Chinese person (the present applicant). The said mobile number was sent to Binance for tracking any account connected / associated with the said mobile number. The said mobile number

was found to be linked to Binance Account ID 207391450 in the name of the present applicant and his IP location was found in India and on the basis of technical surveillance, he was apprehended.

12. It was alleged that the applicant came in contact with Chinese lady named Coco and he used to purchase the SIM cards in India and sell the same to his customers in China.

13. It is alleged that these SIM cards were used to activate WhatsApp in China, where it was banned, by sending OTPs for activation. It is alleged that the applicant, a Chinese national, was traced and arrested on 14.09.2023, revealing his involvement in procuring SIM cards and activating WhatsApp in China.

14. It is alleged that on 14.09.2023, immediately after the arrest of the applicant, he made a disclosure statement and on the basis of the said disclosure the alleged recovery of 1100 activated SIM cards, about 8 kg of shredded SIM cards, 3 SIM jacks, some electronic devices and $ 96550 USD in his Binance account was made.

15. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and he has nothing to do with the alleged incident.

16. He submits that the disclosure statement and the recovery done at the behest of the applicant is tainted since no independent witnesses were present to witness the same. He submits that only two witnesses were cited, that is, the Investigating Officer himself and a Subordinate Officer.

17. He submits that the chargesheet was filed way back on 02.11.2023 and from the perusal of the chargesheet, not a single fact implicates the present applicant in the offence as alleged in the original complaint.

18. He submits that there is no evidence which shows the active involvement of the applicant in preparing and defrauding people with the forged documents of Ministry of Power. He submits that no document has been recovered from the applicant which would suggest that the applicant was involved with other accused persons.

19. He submits that as per the chargesheet, the applicant cannot be held to be a direct beneficiary of the alleged criminal activities. He submits that the alleged recovery of 1100 activated SIM cards, 8 kg of shredded SIM cards, some electronic devices and 3 SIM jacks, from the applicant does not establish that those SIM cards were used to defraud people as stated in the complaint.

20. He submits that the co-accused, namely, Bablu Moreshwar Lawatre was granted bail by this Court *vide* judgment dated 06.01.2023 and co-accused persons, namely, Mohd. Qasim Shafi, Ramandeep Singh, Akash were granted bail by the learned Trial Court *vide* orders dated 02.11.2022, 28.10.2022 & 18.10.2022 respectively.

21. He submits that the applicant is a young man and is in custody since 14.09.2023, the investigation *qua* the applicant is complete, the chargesheet has already been filed and the applicant is not required for any custodial interrogation.

22. The learned Additional Public Prosecutor for the State opposed the grant of present bail application. He submits that the allegations against the present applicant are serious in nature.

23. He submits that during the course of investigation, 1100 activated SIM cards, about 8 kg of shredded SIM cards, 3 SIM jacks, some electronic devices and $ 96550 USD in his Binance account were recovered.

24. He submits that the name of the present applicant came up in the disclosure statement made by co-accused, namely, Mohd. Juber Alam, who stated that the present applicant was demanding SIM cards for activating WhatsApp in China, since the WhatsApp in China was banned and due to the demand by the present applicant co-accused Juber Alam contacted co-accused Akash (his friend), who was working in Vodafone-Idea as Sales Executive. Both started issuing extra SIM cards to the applicant without the knowledge and consent of the subscribers.

25. He submits that the present applicant is not a resident of India and has no valid visa and there are high chances of him fleeing from justice.

Analysis

26. The applicant was arrested on 14.09.2023. The chargesheet was filed way back on 02.11.2023.

27. The raid was conducted on the basis of disclosure statement of the applicant which led to the recovery of the alleged material. It is contended by the learned Counsel of the applicant that the apart from the Investigating Officer (hereafter "**IO**") himself and a Subordinate Officer to the IO, no independent witnesses were present at the time of the alleged recovery.

28. It is admitted that the only 20 victims are identified by the investigating agency who are alleged to have invested in the company namely Goldcoat Solar and there is no allegation *qua* that applicant with respect to cheating after allegation against the applicant is that he had procured SIM cards unauthorizedly for the purpose of selling them in China.

29. The evidence, in the present case, is documentary in nature. The investigation is already complete and charge sheet

has already been filed. It is not alleged that the applicant is a beneficiary to the alleged cheated amount. Any other allegation would be subject matter of trial.

30. It is seen that the co-accused persons have already been granted bail.

31. It is also not contended by the State that the release of the applicant on bail would hamper any further investigation. Even though it is contended that the applicant is a foreign national and there is a possibility of him fleeing from justice, the same can be taken care by putting appropriate conditions.

32. Considering the above and the fact that the applicant is in custody since 14.09.2023, after the completion of investigation, the chargesheet has already been filed before the learned Trial Court on 02.11.2023 and the fact that the trial is likely to take a considerable amount of time, this Court feels that no useful purpose would be served by keeping the applicant in further incarceration.

33. In view of the above, the applicant is directed to be released on bail in FIR No. 111/2022, on furnishing a personal bond in the sum of Rs. 50,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court / Link Court / Duty Metropolitan Magistrate on the following conditions:

a. The applicant shall appear before the learned Trial Court on every date of hearing;
b. The applicant shall join for further investigation, if any, as and when called by the Investigating Officer (IO) concerned;
c. The applicant shall, upon his release, provide his mobile number to the IO concerned, which shall

be kept in working condition at all times. The applicant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of bail;

d. The applicant shall, upon his release, provide his address to the IO concerned and shall not change the same without informing the IO;

e. The applicant shall not leave the country during the bail period and shall surrender his passport before the concerned Trial Court.

34. In the event of there being any FIR/DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by way of seeking cancellation of bail.

35. The bail application is allowed in the aforementioned terms.

36. 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

MAY 21, 2024
'Aman'/'Hk'