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

+ **BAIL APPLN. 1270/2024**
SURESH KUMAR ALIAS SANJEEV Applicant

Through: Mr. Vishal Chauhan, Adv.

versus

STATE NCT OF DELHI Respondent

Through: Mr. Pradeep Gahalot, APP
for the State with Ms.
Ritika Juneja, Ms. Pallavi
Jain, Mr. Promil Seth
Mago & Mr. Ankur Tuli,
Advs.
SI Chander Shekhar, PS-
Cyber, South West

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
28.05.2024

1. The present application is filed under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeking regular bail in FIR No. 24/2023 dated 19.04.2023 registered at Police Station Cyber Police Station, South West for offence punishable under Section 420 of the Indian Penal Code, 1860 ('IPC').
2. The chargesheet, in the present case, has already been filed under Sections 420/34 of the IPC and Section 66 of the Information Technology Act, 2000. The applicant was arrested on 29.05.2023 and has been in custody since then.
3. The FIR was registered on a complaint given by the victim, namely, Babita, alleging that some unknown persons had



fraudulently taken a sum of ₹7,52,000/- from her bank account.

4. On investigation, it was found that a sum of ₹6,52,000/- had gone to an account from which the amount was withdrawn by the applicant. It is alleged that the applicant was identified on the basis of the CCTV footage while withdrawing the amount from the Bank. It is alleged that the applicant has been using a number of mobile phone devices for committing the alleged offence.

5. The learned counsel for the applicant submits that the maximum punishment for the offence as alleged is only seven years of imprisonment. He submits that no notice under Section 41A of the CrPC was given which is in blatant violation of the guideline laid down by the Hon'ble Apex Court in ***Arnesh Kumar v. State of Bihar & Anr. : (2014) 8 SCC 273*** and the same would entitle the applicant for grant of bail.

6. He submits that the accounts in which the money was transferred from the account of the complainant does not belong to the applicant but belongs to the accused, Krishan Kumar and the applicant is only his employee.

7. The investigation in the present case is already complete and the chargesheet has already been filed. The applicant cannot be stated to be required in custody for further investigation. The applicant is a 45 year old man and has three minor children to be taken care of. There cannot be any apprehension that the applicant, if released on bail, will tamper with the evidence.

8. Whether the applicant was the main beneficiary or was only an employee working at the instance of another co-accused, would be tested during the course of trial.

9. The object of Jail is to secure the appearance of the accused during the trial. The object is neither punitive nor



preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

10. Considering the aforesaid discussion, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court / Duty MM / Link MM, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the boundaries of the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

11. 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 filing an application seeking cancellation of bail.

12. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application



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.

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

AMIT MAHAJAN, J

MAY 28, 2024
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