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

% ***Date of Decision: 02.05.2024***

\+ **BAIL APPLN. 1496/2024**

KUNDAN KUMAR ..... Petitioner

Through: Mr. Akshat Sharma, Mr. Prajanya Rathore, Mr. Siddharth Arora and Ms. Shalini Singh, Advocates

versus

CENTRAL BUREAU OF INVESTIGATION ..... Respondent

Through: Mr. Ripu Daman Bhardwaj, SPP for CBI with Mr. Kushagra Kumar, Advocate

CORAM:
HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J. *(ORAL)*

1. The instant application under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973 (*'Cr.P.C.'*) has been filed on behalf of applicant seeking grant of anticipatory bail in case arising out of FIR bearing No. RC221-2023-E0005 registered by Police Station E.O. III, Central Bureau of Investigation ('CBI') , New Delhi for offences punishable under Sections 120B/420 of the Indian Penal Code, 1860 (*'IPC'*) and Sections 66C/66D of the Information Technology Act, 2000 (*'IT Act'*).

2. Briefly stated, it is the case of the prosecution that a written complaint dated 08.02.2023 was received from one Shri Kuldeep Kumar Hemrom, working in CBI, Head Office, New Delhi as constable alleging that on 03.02.2023 he had booked a courier from DSK Xpress Services (authorised associates of Blue Dart and DHL), New Delhi for Lucknow, Uttar Pradesh in the name of one Archana Lakara and he had been further handed over a receipt of the alleged courier bearing Shipment Number as 81124210963. It is further alleged that since the complainant had booked the courier, he had been checking its status regularly using the shipment number given to him. However, it is alleged that on 05.02.2023, when the complainant had checked the status on the website i.e., 'www.trackcourier.io', he had seen that the status of the courier was marked as 'mislocate'. So, the complainant had tried to find out Blue Dart's customer care number online. After that, he had found a mobile number bearing no. 8*******71, listed as Blue Dart's customer care number. It is further alleged that the complainant had then called on the said number and the person who had answered his call had said he was from Blue Dart and that his senior would get in touch to help and assist the complainant to resolve the said issue. Later, the complainant had got a phone call from another mobile number i.e., 9*******7, claiming to be from Blue Dart, who had addressed complainant's issue about the mislocated courier. The said person had asked the complainant to pay Rs. 2 to locate the said courier, but the complainant did not make any transaction for the same. After that, the complainant had received a call from mobile number 8********4 and the caller had introduced himself as one Sanjay

Kumar, allegedly a Senior Executive Officer from Blue Dart, who had informed the complainant that he would be sending a link via SMS to him and had further asked him to enter his details after clicking on it. Thereafter, he had received a link from 'https://courierpay.buzz/', via SMS and as instructed by the senior executive officer he had clicked on the said link and had further filled out the form wherein had given his bank name, mobile number, an amount of Rs. 2, and a UPI PIN for his SBI account number. Upon enquiry from the alleged officer i.e. Sanjay he had said that the said payment was under the name Ashok Ram and after the payment went through, Sanjay had further sent the complainant a message and had asked him to forward it to a number he had provided. Then, the complainant was further told that he had located the alleged courier. Further as alleged, to double check the same the complainant had again tracked his courier using the shipment number. However, on checking it still showed as 'mislocate'. So, the complainant had again called Sanjay Kumar on mobile number 8*******4 and had told him that his courier was still mislocated and the same had not been found yet, reverting to the said call Sanjay Kumar had assured the complainant that it would be delivered by evening itself. It is further alleged that on 08.02.2023, when the complainant had checked his SBI bank account statement using the YONO app, he had discovered that on 06.02.2023 an amount of Rs. 99,963/-, and on 07.02.2023, an amount of Rs. 98,965/- had been debited from his account. The said transactions were not authorized by him and it is alleged that the said individuals who pretended to be Blue Dart representatives and used the mobile numbers are responsible for these transactions. Thereafter, the present RC/FIR was registered by the CBI. Further during investigation, it has been revealed from analysis of the call data records ('CDRs') of the mobile numbers given by the complainant that the said communication was between the complainant and the accused persons and the location of the accused persons was from Bihar. Further, upon analysing the bank accounts to which the said amount was transferred the same had revealed that the said amount was withdrawn from HDFC Bank ATM located in Bihar. Based on the information from a reliable source, the CBI team had arrived at the HDFC Bank ATM in Nawada and apprehended co-accused Amit Kumar in the act of withdrawing money from an account that wasn't his own.

3. Learned Counsel appearing on behalf of the applicant/accused argues that the present applicant was not named in the FIR and that he has no role in the commission of the said offence. It is argued that the present applicant/accused has been falsely implicated in the present case and that he is not even a beneficiary in the alleged cheated amount. It is further argued that the applicant has no criminal antecedents. Moreover, the main accused i.e., Amit Kumar has been granted bail by the learned Trial Court *vide* order dated 04.07.2023. It is further stated that the only role attributed to the present applicant is that he had exchanged calls with the main accused Amit Kumar and that the present applicant has been made an accused only after the disclosure statement of co-accused Amit Kumar. It is also submitted that the present applicant is ready to join investigation and fully cooperate with the investigation as and when called by the investigating agency. Thus, the

applicant be enlarged on pre-arrest bail.

4. *Per Contra*, Learned Special Public Prosecutor for the CBI, strongly opposes the present bail application and submits that during further investigation it has been revealed that the present applicant/accused used to provide ATM cards along with PINs to the main accused Amit Kumar so that he could then withdraw money from various ATMs including the ATM from where the main accused had been apprehended by the CBI. It is submitted that the investigation into the present matter is at a very early stage and it is important to unearth the modus operandi and the individual roles of each accused. Furthermore, there exists an organized syndicate of cyber criminals, of which the present applicant is a participant and if he is enlarged on pre-arrest bail, he may further commit cybercrimes and can potentially target more individuals. Thus, in order to effectively investigate the case, the investigating officer requires his custodial interrogation. Therefore, the present bail application of the applicant/accused be dismissed.

5. This Court has heard arguments addressed on behalf of both the parties and has perused the material placed on record.

6. This Court notes that the prosecution's case revolves around a series of fraudulent activities involving the booking of an alleged courier and unauthorized transactions from the complainant's bank account. The said events were unfolded when Shri Kuldeep Kumar Hemrom, a constable at the CBI Head Office in New Delhi, had lodged a written complaint dated 08.02.2023, alleging that on 03.02.2023, he had booked a courier through DSK Xpress Services, an associate of

Blue Dart and DHL, from New Delhi to Lucknow, Uttar Pradesh, in the name of one Archana Lakara. He had then received a receipt with a shipment number i.e., 81124210963, for the said courier. Upon regularly checking the status of the courier online, the complainant had found it marked as 'mislocate' on 05.02.2023. Attempting to resolve the issue, the complainant had sought Blue Dart's customer care number and had called a mobile number allegedly belonging to Blue Dart's customer service. Subsequently, he had then received a call from another number, also claiming to be from Blue Dart, asking for a payment of Rs. 2 to locate his courier. However, the complainant did not make any transaction. Later, he had again received a call from a person identifying as Sanjay Kumar, allegedly a Senior Executive Officer from Blue Dart, who instructed him to click on a link sent via SMS and provide his details. Following Sanjay's instructions, the complainant had filled a form on the website 'https://courierpay.buzz/' and had also made a payment of Rs. 2 using his SBI account. Despite the payment, when the complainant had checked the courier's status again, it still showed as 'mislocate'. The complainant had then contacted Sanjay Kumar, who assured him that the parcel will be delivered through courier by evening. However, on 08.02.2023, the complainant had discovered unauthorized debits of Rs. 99,963/- and Rs. 98,965/- from his SBI bank account. Subsequently, the CBI had registered a case based on the written complaint received and upon investigation it had been revealed that these transactions were traced to Bihar through CRD analysis and bank account analysis. It was further revealed that the communication between the complainant and the accused originated from Bihar. The CBI team had then located an HDFC Bank ATM in Nawada, Bihar, where co-accused Amit Kumar was caught withdrawing money from an account not belonging to him. As far as the role of present applicant/accused is concerned it has been alleged that upon interrogating, the co-accused Amit Kumar had revealed that the present applicant/accused is his associate and that the present applicant/accused had provided him with various ATM cards and PINs to facilitate cash withdrawals from the said accounts including the one at HDFC Nawada Branch, Bihar. Further the said version corroborates the CDRs of the present applicant and co-accused Amit Kumar as the same indicate continued communications between the applicant and the co-accused during the relevant period of time.

7. In this Court's opinion granting bail to the present applicant/accused could jeopardize the ongoing investigation which is still in its nascent stage. If the present applicant is enlarged on pre-arrest bail there is a possibility that the same might hinder the investigation as crucial evidence is being collected and to uncover the entire scam. To sum up, the prosecution's case entails a chain of events starting from the booking of a courier, fraudulent communication with impersonators posing as Blue Dart representatives, unauthorized transactions from the complainant's bank account which needs investigation including unearthing the involvement of organized cybercriminals in perpetrating these crimes. Custodial interrogation of accused will be required for abovementioned purposes.

8. Given the intricate nature of the fraudulent activities involved and the possibility of a wider network, this Court is not inclined to grant

pre-arrest bail to the present applicant/accused. Thus, the present bail application is dismissed.

9. However, nothing expressed herein above shall tantamount to opinion expressed on merits of the case during trial.

10. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

MAY 2, 2024/ns

Click here to check corrigendum, if any