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

\+ **<u>BAIL APPLN. 2152/2023</u>**

PAWAN SINGH ..... Petitioner

Through: Mr. Kanhaiya Singhal, Mr. Prasanna, Mr. Ujwal Ghai, Ms. Deepali Pawar, Mr. Anmol Chopra, Mr. Teeksh Singhal, Mr. Ajay Kumar, Mr. Udit Bakshi, Mr. Anmol Sharma & Ms. Vani, Advs.

versus

STATE NCT OF DELHI ..... Respondent

Through: Mr. Utkarsh, APP for the State
Inspector Pawan Kumar, PS- Crime Branch

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **29.01.2024**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 235/2022 dated 07.10.2022, for offences punishable under Sections 419/420/465/467/468/471/472/120-B of the Indian Penal Code, 1860 (‘**IPC**’) and Sections 66-C & 66-D the Information & Technology Act, 2000, registered at Police Station Crime Branch.

2. It is alleged that, on 07.10.2022, on a secret information, a raid was conducted at Flat No. 178, 4th Floor, Sun View Apartment, Sector-11, Dwarka, Delhi and one accused namely Prince @ Vijay Nepali was apprehended as he was wanted in some other FIR, bearing FIR No. 394/2022, under Sections 302/34 IPC, registered at Police Station Bindapur, Delhi.

3. It is further alleged that in the said flat, where the raid was conducted, one person namely Mohd. Zahid was found to be

residing along with Prince@[illegible]enali and was also taken to the police station in order to verify his credentials. Thereafter it was found that Mohd. Zahid was earlier arrested in bearing FIR No. 157/2020.

4. It is alleged that, Mohd. Zahid was found in possession of one laptop - DELL Inspiron 5537 A07 (Serial No.D89VD02), two mobile phones - Redmi blue colour (IMEI No. 862324050065292/01 & 862324050065300/01) having mobile No. 7509633687, another mobile - VIVO (IMEI No. 868764068053315/10 & IMEI No. 868764068053307/10) having mobile no. 9289111531 & 9452926223, Swipe machine - mSwipe having serial no. 10910301176279, IMEI: 863977034608948, Debit card of UCO Bank bearing no. 6522381420007338 in name of HOTEL RANJANA INN, one stamp in name of "For HOTEL Ranjana INN Authorized Signatory", Two SIM cards of BSNL (8991530107142356897l) and Vodafone (899102738190 07925651).

5. During the course of investigation, it was revealed that Mohd. Zahid used to manage the fake accounts arranged by the present applicant. The applicant was thereupon apprehended, and upon checking his phone it was found that the applicant was actively working with Zahid and was running a racket of fraudulent accounts, fastag and arranging the SIM card on fake IDs.

6. The allegations, as noted in the Status Report, are reproduced as under:

> *"i. Accused was found involved in two other cases of same modus operandi i.e FIR No.157/2020, dated 18/08/2020, u/s-420/120B/ 419/34/467/201 IPC, P.S- Daryagang, New Delhi and Fir No.14/2013, P.S- Crime Branch.*
> *ii. It was found from the whaapp chat of the accused that, he was actively in touch with co-accused Zahid and cheated lacs of rupees of innocent victims. After that, used to share money*

> *in cash with other accused.*
> *iii. Mobile No. 7692952241 was found in possession or used by accused Pawan Singh, this mobile is found to be activated on the ID of Anita Tiwari w/o Deepesh Kumar Tiwari r/o House No - 22, Gram - Post - Ponda, Tehsil - Sihora, Jabalpur Madhya Pradesh. It revealed during investigation, she has never got issued the said SIM. Another Mobile No. 9179275078, used by accused Pawan Singh was found activated on the ID of Nandram Katare s/o Rajaram r/o Kandipura, ward no. 14, Budi Mandu, Dhar, Madhya Pradesh. It revealed the persons concerned is factious and could not be found during investigation."*

7. On a specific query from the court, the learned Additional Public Prosecutor for the State on instructions submits that even though, the allegation against the applicant is of cheating to the tune of approximately ₹80,00,000/-, however, they are still trying to figure out, who the victims are. It is not clear as to who has been defrauded in the manner alleged by the prosecution. It appears that, even though charge sheet was filed way back on 28.12.2022, charges have not been framed, since the investigation is incomplete.

8. Co-accused namely Lokesh Bansal, has already been granted pre-arrest bail by the learned Trial Court *vide* order dated 28.02.2023. It was alleged that Lokesh Bansal used to credit the amount in his account and used to give it to the applicant after deducting his commission. The amount, allegedly, fraudulently taken out from unidentified victims was taken out by showing "spending in the petrol pump" owned by co-accused Lokesh Bansal. The role alleged against the applicant, at this stage, cannot be argued to be graver than co-accused Lokesh Bansal.

9. Since the Investigating Agency is yet to identify the victims, it is obvious that until the victims are identified, they would not be able to proceed with arguments on the framing of charges before the learned Trial Court.

10. The learned Additional Public Prosecutor for the State submits that the applicant is found to be involved in another cases of similar nature in FIR Nos. 157/2020 and 14/2013.

11. The learned counsel for the applicant, however, submits that the applicant is already on bail in the said cases.

12. Considering the fact that the chargesheet has already been filed and the manner in which investigation is carried out, it is uncertain as to when the supplementary chargesheet would be filed. The accused cannot be kept in custody for an indefinate period, for the reason that the investigating agency has not been able to figure out as to what the actual case is, and who the actual victims of the fraud are.

13. The learned counsel for the applicant further submits that the applicant has a family to be taken care of and also has a nine year old child.

14. In view of the above, no purpose would be served by keeping the applicants in further incarceration.

15. Without commenting further on the merits of the case, the applicant is directed to be released on bail in FIR No. 235/2022 on furnishing a bail bond in the sum of ₹50,000/- (Rupees Fifty Thousand Only) with two sureties of the like amount, subject to the satisfaction of the Trial Court / Duty Metropolitan Magistrate on the following conditions:

a. 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;

b. The applicant shall under no circumstance leave the country without the permission of the Trial Court;

c. The applicant shall appear before the learned Trial Court as and when directed;

d. 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;

16. 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.

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

AMIT MAHAJAN, J

JANUARY 29, 2024 / *"SS"*