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

\+ BAIL APPLN. 2613/2023

SANJAY KUMAR TIWARI ..... Petitioner

Through: Mr. Sandeep P. Agarwal, Sr. Advocate with Mr. Shahid Ali, Mr. Anurag Agarwal, Ms. Tanya Chanda, Ms. Meenu Agarwal, Mr. Rahil Mabood & Ms. Sonia Aneja, Advocates.

versus

THE STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Amit Ahlawat, APP for the State with SI Dheerendra Kr. P.S. Special Cell.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

O R D E R

% **15.05.2024**

1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 41/2023, under Sections 419/420/170/120B/34 of the IPC, registered at P.S. Special Cell, Lodhi Colony.

2. The case of the prosecution, as per status report dated 25.01.2024, authored by Insp. Rakesh Rana, INSP/Special Cell, Lodhi Colony, is as under:

> "1. Most respectfully It is submitted that an input was received from intelligence agency that the caller of mobile number 7037848606 has made suspicious calls on the phone number of high dignitaries holding constitutional post and other senior govt. officials. However, on enquiry the subscriber of the above mobile number was found not the real user of the above phone. Hence manual and technical surveillance was made on the user of the mobile number and it revealed that from the above mobile number many calls were made to customers who have

availed loan from NBFC companies and the callers on the above phone was found asking innocent loan customers to settle the loan amount and receiving EMI amount from them by impersonating themselves as representative of some NBFC On examination of one such witness namely Sh. Subhash S/o Late Chander Bhan R/o HNo. 145 Sunlight Colony Gali No. 3 Old Seema Puri Delhi age 52 years,it has come to notice that the caller of the above mobile has taken one EMI from him fraudulently. Therefore, the present case has been registered on his statement and further investigation was conducted.

2. During investigation on 18/02/23 accused Prince Poddar, the present user and caller of the abovementioned mobile number 7037848606 was arrested. At the time of his arrest three mobile phones were recovered from him. The detail of such mobile phones is as under:

(i) One Mobile Phone containing SIM of mobile number 7037848606 (Registered subscriber is Anis R/o Muzaffar nagar, (UP)

(ii) One Mobile Phone containing SiM of mobile number 9667979228 (Registered subscriber is Batoran Dass R/o Patparganj, Delhi)

(iii) One Mobile Phone containing SIM of mobile number 7290987886 (Registered subscriber was accused Prince Poddar)

3. On interrogation the accused Prince Poddar disclosed that he is a part of crime syndicate masterminded by accused Sanjay Tiwari. All of them are indulged in doing cheating from the customers who had availed loan from NBFC companies and also taking donations from the high dignitaries by impersonating themselves from highest govt. offices. He also disclosed that accused Sunil arranged fake SIMs of outside Delhi for the crime syndicate whereas accused Sanjay Tiwari used to arrange fake SIMs of Delhi on the IDs of rikshaw pullers and other such persons and also mobile phones in which these fake SIMs were to be inserted for committing crime and to lead the crime syndicate. He further disclosed that from mobile number 7037848606 many calls were made not only to the customers who have availed loan facility but also to the high dignitaries holding constitutional posts and other senior government officials for the purpose of cheating.

4. The accused Prince Poddar further disclosed that the mastermind Sanjay Tiwari has given him two mobile phones containing two mobile numbers 7037848606 and 9667979228. In one mobile number 7037848606 Sanjay Tiwari posted picture and text pertaining to one high dignitary of Indian Govt. As WhatsApp profile picture. As per directions of Sanjay Tiwari, he had called and sent WhatsApp messages to some high dignitaries asking their profile and further instructing them to talk on mobile no. 9717883705used by Sanjay Tiwari. He was

also instructed by Sanjay Tiwari that the phone calls were to be made by him while sitting in a DTC bus so that nobody could trace him. He further disclosed that Sanjay Tiwari used to give him instructions through mobile number 92892891 18 when he was talking to high dignitaries.

5. On analysis the locations from the call detail records of mobile number 7037848606 being used by the accused Prince Poddar for such calling he was found on different locations along with other fake mobile phone number 9667979228 and his genuine mobile number 7290987886carried by him on different dates. Accused Sanjay Tiwari used to give instructions to Prince Poddar on mobile 9667979228 through mobile number 9289289118. Several calls were made between mobile number 9289289118 and 9667979228 and between mobile number 9289289118 and 7290987886. During investigation it has been found that the registered subscriber of mobile phone numbers 9873868689, 995398066 and 9643450573 is accused Sanjay Tiwari. It is also worth noting that locations of mobile number 928989118 are same as the locations of above mentioned three mobile numbers of accused Sanjay Tiwari.Also on analysis of the mobile phone number 7037848606 reCovered from the accused Prince Poddar WhatsApp messeges sent to high govt. dignitaries were found in the recovered mobile phone. The screenshots of such WhatsApp messages have been taken and placed on case file.

6. During further investigation accused Sunil was arrested in the present case who used to arrange fake SIMs for the crime syndicate. On interrogation and checking the picture of the mobile number 7037848606 and 9717883705 were found in the mobile phone recovered from the possession of accused Sunil. On interrogation the accused Sunil disclosed that he used to provide fake SIMs to this crime syndicate after procuring the same from his other associates namely Sachin, Tinku and Naveen.

7. During investigation Mr. Batoran, the registered subscriber of mobile numbers 9289289118 and 9667979228 was examined. His statement revealed that he had given both the SIMs of above mobile numbers to Sanjay Tiwari who introduced himself as journalist. Mr. Batoran also correctly identified the photograph of Sanjay Tiwari as the person to whom he had given two SIMs. Accused Sanjay Tiwari also gave him money for these two SIMs. The Statement U/s 164 Cr.P.C. of victim Mr. Batoran was recorded.

8. During the course of investigation accused Sanjay Tiwari filed an

application of anticipatory bail before the Ld. court of Sh. Devender Kumar jangala ASJ-5 New Delhi district PHC, New Delhi on 27.02.2023 and same has been dismissed by concerned Hon'ble Court.

9. During investigation on 28.02.23 the accused Sanjay Tiwari above has been arrested. On his search two mobile phones were recovered from his possession. One mobile phone with number 9643450573 and another mobile phone with number 9219553066 were seized in the case. On investigation it has been found that several calls have been made to the various high rank officials from mobile number 9219553066 recovered from the possession of the accused. Even a case FIR No. 55/21 dated 28/02/23 U/s 170 IPC & 66 IT Act PS Special Cell on the complaint of PS to Ld. Principal District & Session Judge) Patiala House Court New Delhi.

10. During further investigation of the case when the accused Sanjay Tiwari was on PC remand another accused Chander Shekhar was arrested on 04.03.23 at the instance of accused Sanjay Tiwari.

11. Accused Chander Shekhar Chauhan along with his other associates namely Sunil, Prince Poddar and Sanjay Tiwari was collecting money from loan customers by becoming fake representative of Paysense company and such cheated amount was being credited in account No. 1392010000001002 of Utkarsh bank.

12. Accused Sanjay Tiwari is a habitual offender who was previously involved in 13 criminal cases of cheating, forgery and extortion.

13. A Case vide FIR No. 55/23 U/s 170 IPC & 66 IT Act PS Special Cell was registered on the complaint of PA of Ld. DJ Patiala House court regarding receiving suspicious calls for undue favour during hearing on anticipatory bail of accused Sanjay Tiwari.

14. It also worth noting that a case FIR No. 168/23 U/s 195A IPC PS Seemapuri has also been registered on the complaint of Mr. Subhash (complainant in Present case) regarding threat and withdrawal of present case.

15. The Charge Sheet of the case has been filed before the Hon'ble Court of CMM on 17.04.23 and next date of hearing is fixed for 19/02/2024.

16. The status report is for the kind perusal of Hon'ble court please."

3. Learned Senior Counsel appearing on behalf of applicant submits that out of 08 accused persons named in the chargesheet, 04 were not arrested

and out of remaining 04 accused persons who were arrested, 03 have already been granted bail. It is submitted that chargesheet stands filed on 17.04.2023 and on account of the same it is clear that investigation is complete and supplementary chargesheet, if any, has not been filed. It is further submitted that so far as, the complaint in case FIR No. 168/2023, under Section 195A of the IPC registered at P.S. Seemapuri, is concerned, it is pointed out that on the date of the alleged incident, the applicant was in fact in police custody of the officers of P.S. Special Cell. It is further stated that the applicant is on bail in other offences for which he is being prosecuted. It is submitted that the present applicant has been in judicial custody in the present FIR since 06.03.2023.

4. *Per contra*, learned APP for the State, on instructions of the Investigation Officer, submits that the present applicant is the mastermind behind the present case. It is submitted that the present applicant alongwith his syndicate members has committed similar offences with respect to which other FIRs have also been registered. It is submitted that the complainant in the present case has been allegedly threatened by the uncle of the present applicant, regarding which the aforesaid FIR No. 168/2023, under Section 195A of the IPC at P.S. Seemapuri has been registered. It is submitted that the investigation in the present case is complete and only the supplementary chargesheet needs to be filed with respect to certain FSL reports.

5. Heard learned counsel for the parties and perused the record.

6. It is not in dispute that the persons as mentioned in the status report, who were allegedly the members of the syndicate belonging to the present applicant, have already been granted bail. Chargesheet stands filed citing 21 witnesses and despite lapse of 01 year no supplementary chargesheet has

been filed till date and the trial has not commenced. Nominal roll received from the concerned Jail Superintendent reflects that as on 08.05.2024, the present applicant has been in custody in the present FIR for 01 year and 29 days. It is further reflected from the nominal roll that the present applicant had been released on interim bail on two previous occasions and without misusing the liberty granted to him, he had duly surrendered. It is further reflected from the nominal roll that the present applicant is in bail on other offences mentioned therein.

7. In totality of the facts and circumstances, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

i. The applicant shall not leave NCT of Delhi without prior permission of the learned Trial Court.

ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.

iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.

iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.

v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

8. The application is allowed and disposed of accordingly.

9. Pending applications, if any, also stand disposed of.

10. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present application.

11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MAY 15, 2024/bsr

Click here to check corrigendum, if any