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

(13) BAIL APPLN. 2614/2023 & CRL.M.A. 20914/2023 & 20915/2023

(14) BAIL APPLN. 2615/2023 & CRL.M.A. 20917/2023 & 20918/2023

(15) BAIL APPLN. 2616/2023 & CRL.M.A. 20921/2023 & 20922/2023

(16) BAIL APPLN. 2617/2023 & CRL.M.A. 20924/2023 & 20925/2023

(17)+ BAIL APPLN. 2618/2023 & CRL.M.A. 20927/2023 & 20928/2023

AZHAR KHAN ..... Petitioner

Through: Mr.Samudra Sarangi, Ms.Shruti Raina, Ms.Riya Kalra, Ms.Alisha Luthra & Mr.Tanmay Chaturvedi, Advs.

versus

STATE ..... Respondent

Through: Mr.Aman Usman, APP with SI Manoj Kumar, PS Vasant Kunj South.
SI Sanjeet, PS Janakpuri.
SI Ravi Shankar, Ps Patel Nagar.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% **05.02.2024**

1. These applications have been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'CrPC'), praying for the applicant to be released on bail in the following FIR(s):

u. FIR No. 368/2021 registered with Police Station: Janakpuri, West District, Delhi under Sections 420/34 of the Indian Penal Code, 1860 (in short, 'IPC') in BAIL APPLN.

2614/2023;

v. FIR No. 416/2021 registered with Police Station: Vasant Kunj South, South-West District, Delhi under Sections 419/420/406/468/471/120B IPC in BAIL APPLN. 2615/2023;

w. FIR No. 418/2021 registered with Police Station: Vasant Kunj South, South-West District, Delhi under Sections 419/420/406/468/471/120B IPC in BAIL APPLN. 2616/2023;

x. FIR No. 333/2021 registered with Police Station: Patel Nagar, Central District, Delhi under Sections 406/420/34/120B IPC in BAIL APPLN. 2617/2023; and,

y. FIR No. 417/2021 registered with Police Station: Vasant Kunj South, South-West District, Delhi under Sections 419/420/406/468/471/120B IPC in BAIL APPLN. 2618/2023.

2. It is the case of the prosecution that the applicant defrauded the Bank of Baroda of an amount of over Rs.2.50 crores by obtaining Auto Loan Credit based on fictitious customer applications. It is stated that the applicant has also opened a fake account in the name of M/s KVS Automobiles Pvt. Ltd. with the ICICI Bank, Janpath Branch, New Delhi for receiving these amounts and thereafter siphoning them off. It is further alleged that the applicant also impersonated himself as Rahul Chauhan and as a Director of M/s KVS Automobiles Pvt. Ltd. while opening the said bank accounts. It is stated that the co-accused Moinuddin and Sharukh are presently absconding and they have been declared as Proclaimed Offenders vide order dated 26.07.2023 of the learned Trial Court. The copies of the insurance policies that were submitted with the bank were also found to be forged/fabricated.

Another co-accused, namely, Rajiv was granted *interim* bail by this Court vide order dated 30.11.2022, which was later extended vide orders dated 05.01.2023 and 13.01.2023. Rajiv was supposed to surrender on 30.01.2023, however, he did not surrender on the said date and absconded. He has been declared as a Proclaimed Offender vide order dated 11.05.2023 of the learned Trial Court.

3. It is further stated that as far as the applicant is concerned, not only the charges against him are grave and it is alleged that he is the mastermind of the whole operation, the petitioner does not also have a permanent place of residence. It is stated that though the petitioner has parents and one younger sister, they also do not have any permanent place of residence. It is submitted that, therefore in case the applicant is released on bail, in all likelihood, he shall also abscond like the other co-accused.

4. The learned counsel for the applicant submits that the applicant has been in custody since 18.07.2021. In the first of the abovementioned FIRs, that is, FIR No. 417/2021, the applicant had been granted bail vide Order dated 21.07.2021 passed by the learned Metropolitan Magistrate, South-West District, Dwarka Courts, Delhi, on his furnishing bail bond/security bond to the tune of Rs.50,000/-. However, the applicant was unable to furnish the Bail Bond on the same day and, therefore, he was remanded back to judicial custody. Before he could be released on bail again in the said FIR, the other FIRs were filed, because of which he has remained in custody since then. He submits that the Chargesheet(s) in the FIRs in question was filed in October 2021. The Supplementary Chargesheet(s) have also

been filed in November 2021. He submits that, therefore, the investigation is complete. He submits that the charge has also been framed against the applicant, though only in one of the cases. There are a total of 102 witnesses to be examined by the prosecution and, therefore, there is no likelihood of the trial getting concluded in the near future. He submits that the applicant is willing to abide by any condition that this Court may impose for releasing him on bail.

5. I have considered the submissions made by the learned counsels for the parties.

6. In ***Deepak Yadav v. State of U.P. & Anr.***, (2022) 8 SCC 559, the Supreme Court has summarized and reiterated the principles to be kept in mind while deciding an application for grant of Bail, and has held as under:

> *"**22.** As reiterated by the two-Judge Bench of this Court in Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, it is well-settled that the factors to be borne in mind while considering an application for bail are:*
>
> *(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;*
> *(ii) nature and gravity of the accusation;*
> *(iii) severity of the punishment in the event of conviction;*
> *(iv) danger of the accused absconding or fleeing, if released on bail;*
> *(v) character, behaviour, means, position and standing of the accused;*
> *(vi) likelihood of the offence being repeated;*
> *(vii) reasonable apprehension of the witnesses being influenced; and*
> *(viii) danger, of course, of justice being thwarted by grant of bail."*

7. Reference can also be made to the judgment dated 28.09.2022 of this Court in ***Ajay Kumar v. State (NCT of Delhi)*** Neutral Citation no. 2022:DHC:4010, wherein in relation to economic offence, the Court emphasised on even stricter parameters for releasing the accused on bail to be adopted.

8. As is evident from the case of the prosecution, the applicant is the mastermind of the whole operation. He is accused of defrauding the Banks by not only impersonating, but also creating forged and fabricated documents in names of fictitious persons for taking loans from the said Banks. Two of the co-accused are absconding, while one has jumped the interim bail granted to him by this Court. These three co-accused have been declared as a Proclaimed Offenders. Though the applicant has been in custody for the last two years and six months, in my view, for the above reasons, no case for releasing him on bail for the present is made out.

9. The learned Trial Court is requested to expedite the trial.

10. In case there is further delay in the conclusion of the trial, the applicant may file a fresh application praying for being released on bail, which shall be considered by the learned Trial Court in accordance with law.

11. The Bail Applications are disposed of in the above terms. The pending applications are also disposed of being rendered infructuous.

NAVIN CHAWLA, J

FEBRUARY 5, 2024/*rv*/AS

Click here to check corrigendum, if any