$~12

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

\+ **BAIL APPLN. 3196/2023**

MUSTAJAB GULAM MOHAMMED NAVIWALA ..... Applicant

Through: Mr. K.K. Manan, Sr. Advocate alongwith Mr. Luv Manan, Mr. Prateek Chaudhary, Mr. Amit Alok, Mr. Ajit Singh, Ms. Gurpreet Kaur & Mr. S. Pyne, Advs.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr. Utkarsh, APP for the State with SI Sonam Joshi, PS Special Cell.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **15.01.2024**

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in FIR No.48/2023 dated 22.02.2023, registered at Police Station Special Cell, New Delhi for offences punishable under Sections 384/385/420/120B of the Indian Penal Code, 1860.

2. By order dated 05.01.2024 passed by this Court, the applicant was directed to be released on interim bail on furnishing a personal bond in the sum of ₹25,000/- with two local sureties of the like amount to the satisfaction of the concerned Jail Superintendent.

3. Mr. K.K. Manan, learned Senior Counsel appearing for the applicant, at the outset, submits that the applicant could not avail the benefit of interim bail granted by this Court, since he was unable to furnish local sureties as he is a resident of Gujarat.

4. A Chart has been handed over today by the Investigating Officer. It is alleged that various complainants had transferred

money into the account of one M/s Rise Up Consultancy Pvt. Ltd. The money was thereafter transferred into the accounts of six companies/proprietorship concern/ individuals, namely, 1. RR Enterprises (Proprietorship), 2. Prive Corner Pvt. Ltd., 3. Ankan Biswas holding A/C No. 402405000295 with ICICI Bank., 4. Glomium Technology Pvt. Ltd., 5. Vinchi Anisbhai holding A/C No. 59200172378692 and 6. KGN Enterprise (Proprietorship). The applicant is the proprietor of RR Enterprise.

5. Mr. Manan, learned senior counsel for the applicant submits that except the present applicant, all other accused persons have been granted bail and, therefore, the applicant is entitled to the grant of bail on the ground of parity.

6. It is pointed out that the directors of Rise Up Consultancy Pvt. Ltd. and Prive Corner Pvt. Ltd., and one Vinchi Anisbhai, and the present applicant were arrested during the investigation.

7. The allegation in the present case is that Rise Up Consultancy Pvt. Ltd. is the company in whose bank account several transactions were found to be carried out, and from there the money was siphoned off in multiple other accounts. The allegation against RR Enterprises, Prive Corner Pvt. Ltd., Ankan Biswas holding A/C No. 402405000295 with ICICI Bank., Glomium Technology Pvt. Ltd., Vinchi Anisbhai holding A/C No. 59200172378692 and KGN Enterprise is that they are the beneficiaries of the said alleged cheated amount, which was then transferred to various other accounts.

8. The learned Additional Public Prosecutor for the State, on instruction of the Investigating Officer, admits that except the applicant, all other persons who were arrested have been granted bail.

9. The learned APP, on being queried, has not been able to

point out as to how the alleged involvement of the applicant in the present case is graver than other accused persons released on bail.

10. The Directors of Prive Corner Pvt. Ltd. and Rise Up Consultancy Pvt. Ltd., and one Vinchi Anisbha, have been granted bail by the learned Trial Court. At this stage, the role of the applicant cannot be alleged to be more grave and more serious than the persons already released on bail.

11. The applicant is in custody since 16.05.2023 and the chargesheet has already been filed for offences punishable under Sections 384/385/420/120B of the IPC. As per the statutory provisions, the maximum sentence for the offence punishable under Section 384 of the IPC is upto three years, under Section 385 of the IPC is upto two years and under Section 420 of the IPC is upto seven years. The evidence, at this stage, seems to be documentary in nature, which is already in possession of the Investigating Agency. Therefore, no useful purpose would be served by keeping the applicant in further incarceration.

12. In view of the above, the present application is allowed and the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹1,00,000/- (Rupees One Lakh only) with one surety of the like amount to the satisfaction of learned Trial Court on the following conditions:

a. He shall surrender his passport, if any, to the Investigating Officer and shall under no circumstances leave India without prior permission of the learned Trial Court;

b. He shall not take adjournment before the learned Trial Court;

c. He shall cooperate in the trial and appear before the Trial Court of the case as and when required;

d. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;

e. He shall not, in any manner, try to contact any of the witnesses;

f. He shall provide his mobile number to the investigating officer (IO) concerned/SHO concerned at the time of release which shall be kept in working conditions at all times.

g. In case of change of residential address and/or mobile number, the same shall be intimated to the Investigating Officer/Court concerned by way of an affidavit.

13. 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 appropriate application for cancellation of bail.

14. It is also made clear that the observations made in the present case are only for the purpose of considering the 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.

15. The present application is disposed of in the aforesaid terms.

AMIT MAHAJAN, J

JANUARY 15, 2024

'"SK"