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

\+ BAIL APPLN. 2596/2024

VIKAS KUMAR BALYAN .....Petitioner

Through: Mr. Puneet Mittal, Sr. Advocate with Mr. Vipin Chaudhary, Advocate.

versus

STATE (GOVT. OF NCT OF DELHI) .....Respondent

Through: Mr. Laksh Khanna, APP for State with Insp. Bhanwar Singh, IFSO/Special Cell, Delhi.
Mr. Dhananjay Singh Sehrawat, Advocate for complainant with complainant in person.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

<u>O R D E R</u>

% 11.12.2024

1. By way of present application, the applicant seeks anticipatory bail in FIR No. 231/2024 registered under Section 408 IPC at P.S. IFSO/CCU, Special Cell.

2. Mr. Mittal, ld. Senior Counsel for the applicant submits that during the investigation notice under Section 41A Cr.P.C. was issued to the applicant, subsequent to which he joined the investigation. He further submits that consequent to the grant of interim protection by this Court, applicant has joined the investigation seven times.

On merits, it is stated that the applicant was employed with the complainant’s firm as an accountant. It is contended that the complainant used the applicant to clean the money received by the complainant in his account by transferring it to the complainant/his family members/friends and in lieu thereof to give commission of Rs.15,000/- per transaction. It is submitted that though the complainant has claimed that the OTPs received on complainant's mobile phone were put on auto forward mode by the applicant to validate the net banking transactions, the same however, is not technically feasible. He further submits that the transactions entered into by the applicant were for and on behalf of the complainant and being done as his employee and in lieu of the commission which was promised to be paid to the applicant. In this regard, attention is also drawn to a copy of the Agreement dated 08.12.2021 as well as some receipts as per which the complainant and applicant had agreed that the money from the account of the firm would be transferred to the applicant's account from which it would be withdrawn in cash and handed back over to the complainant. It is further contended that some of the transactions would even show that the money has gone to the co-employees in the complainant's firm. Ld. Senior Counsel has also referred to a complaint written by the applicant to the DCP, IFS, Special Cell stating the modus operandi of the money received by the complainant in his account and the purpose of transferring the same to the applicant's account and thereafter receiving the same in cash.

3. Bail application is resisted by the Ld. APP for the State who is duly assisted by the Ld. counsel for the complainant. It is contended that the applicant had access to not only to the complainant's mobile phone but also to the email account on which OTPs for the net banking transactions were received. The complainant's firm was doing business through another firm namely, *Riya Travels*. The applicant under the guise of transferring the money to his own account described the account as *Riya New Off* and thus,

the complainant did not suspect the transactions. Attention is also drawn to the Status Report to submit that there are more than 141 beneficiaries and transactions are spread over a period of two and a half years. It is stated that till date, only 22 beneficiaries have been identified and out of them some of them happen to be complainant's own family members/friends as well as other employees of the complainant's firm. Lastly, it is submitted that the agreement/receipts/complaint referred on behalf of the applicant were post registration of the FIR and dismissal of his anticipatory bail application.

4. I have heard the learned Senior Counsel/Counsels for the parties and gone through the records available.

5. The present FIR is registered under Section 408 IPC. The Investigating Officer has issued notice under Section 41A Cr.P.C. Indeed, there are transactions which have been verified to have taken place between the complainant's firm and present applicant and from the applicant's account to other persons/entities. While the applicant claims that the entire transaction were done at the behest and knowledge of the complainant, the complainant claims otherwise. Some of the beneficiaries of the transactions done by the applicant are the other employees in the complainant's firm. Indisputably, the entire transaction is through net banking.

Considering that the applicant has joined the investigation and the transaction being completely documented, the interim protection granted to the applicant vide order dated 03.10.2024 is made absolute and it is directed that in the event of arrest applicant be released on anticipatory bail subject to him furnishing a personal bond in the sum of ₹50,000/- with one surety of like amount to the satisfaction of the Arresting Officer/Investigating Officer/SHO of the concerned Police Station and also subject to the following further conditions:-

(i) At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.

(ii) The applicant shall join the investigation as and when, he is asked for.

(iii) The applicant shall inform the concerned Investigating Officer about his current residential address.

(iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Investigating Officer/SHO.

(v) The applicant shall not directly or indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.

(vi) The applicant shall regularly appear before the Trial Court as and when the charge sheet is filed.

6. The application is disposed of in the above terms.

7. Needless to state that the observations made hereinabove are only for the purpose of disposal of present bail application and which shall not have a bearing on the trial of the case.

MANOJ KUMAR OHRI, J

DECEMBER 11, 2024

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