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

\+ BAIL APPLN. 4110/2023

SONU NISHAD ..... Applicant

Through: Mr.Faraz Maqbool, Adv. (DHCLSC) with Ms.Vismita Diwan, Mr.Chinmayi Chhatterjee, Mr.Chandan Kumar and Ms.Sana Juneja, Advs.

versus

STATE GOVT NCT OF DELHI ..... Respondent

Through: Mr.Aman Usman, APP for State alongwith SI Naveen

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% **16.01.2024**

1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 praying for being released on bail in FIR No. 0110/2023, registered at Police Station: Special Cell, Delhi, under Sections 170/419/420/468/471/120B of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that a complaint was received from one Fr. Lawrence Fernandes stating that from October, 2021, he had been receiving calls from different unknown persons asking him to clear up his unclaimed insurance funds of about Rs.86 lacs or else, the same would be cancelled. They informed him that he had to first clear the pending amount in order to get the funds released. One of the accused persons also pretended to be a Fund Clearing Officer, RBI. The Complainant, falling for such fraud, paid a sum of Rs.1.06 crores

as alleged charges to different bank accounts. The Complainant alleged that, in this manner, he had been defrauded.

3. Based on the investigation, the applicant along with a co-accused- Mr.Naveen was arrested on 11.05.2023. During investigation, incriminating evidence in form of a sim card, mobile phones, bank account details, etc. have been recovered. The co-accused -Mr.Talib was also arrested with four sim cards issued on fake IDs of other persons, which he allegedly states that he agreed to give to the accused- Mr.Naveen. It is further alleged that the applicant along with his associates opened fake accounts on fake IDs and the applicant even used the ATM Card to withdraw the amount deposited in such bank accounts, which he disbursed to his associates. It was also discovered that a mobile number in a fake name was also obtained by the applicant, Customer Application Form whereof bears the photograph of the applicant.

4. It is further alleged that the applicant was also arrested by the Dehradun Cyber Crime Police and the Bhiwani Cyber Crime in different cases, and documents such as Voter ID, Aadhaar Card and PAN Card, which were used to open accounts in different names were seized by the Dehradun Cyber Crime Police in FIR No. 24/2020. It is alleged that a total of Rs.68,63,951/- has been credited in the accounts which were opened by the applicant along with his associates using fake Voter ID and PAN Cards.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the above case. He submits that the charge-sheet already stands filed and, therefore, the investigation is

already complete. He submits that all other co-accused persons, barring one who is yet to be apprehended, have been released on bail, including the accused- Mr.Naveen, who, as per the charge-sheet, was the mastermind of the whole operation. He further submits that the applicant has already suffered custodial incarceration of more than eight months and as the trial is likely to take long, he may be released on bail.

6. On the other hand, the learned APP for the State submits that the charges against the applicant are rather grave. It is the applicant who used the mobile connection obtained by him under a false name, for opening a bank account wherein an amount of Rs.68,63,951/- of the defrauded money was deposited. He also used the ATM Card for withdrawing the money which was later distributed amongst the co-accused. He submits that the applicant is also found involved in two other cases and incriminating documents have been recovered from him by the Dehradun Cyber Crime Police in FIR No. 24/2020. He submits that, therefore, the applicant is not entitled to be enlarged on bail.

7. I have considered the submissions made.

8. In the present case, as noted hereinabove, the investigation is already complete and the charge-sheet stands filed. From the reading of the charge-sheet, Mr.Naveen appears to be the main accused, who has already been released on bail. The other co-accused persons, barring one who is absconding, have also been granted bail. The applicant has already suffered custodial incarceration of more than eight months and the trial is likely to take some time. He is stated to

be released on bail as far as the other two cases against him are concerned, wherein the major incriminating material against the applicant is stated to have been recovered.

9. Keeping in view the above facts and circumstances, the applicant is directed to be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the satisfaction of the Ld. Trial Court, and further subject to the following conditions:

i. The Applicant will not leave the country without the prior permission of the Ld. Trial Court.

ii. The Applicant shall provide his permanent address to the Ld. Trial Court. The applicant shall also intimate the learned Trial Court, by way of an affidavit, and to the IO, regarding any change in his residential address.

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

iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned. The mobile location be kept on at all times.

v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses.

10. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

11. The bail application is disposed of in the above terms.

12. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

JANUARY 16, 2024/ns/am

<u>*Click here to check corrigendum, if any*</u>