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

+ **BAIL APPLN. 3408/2024**

SWAPNIL BHALERAO

.....Applicant

Through: Mr. Atharva Kotwal &
Mr. Jaydeep Vaisham
Payan, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State.
SI Neeraj Yadav (P.S.
IFSO, Special Cell).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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20.09.2024

CRL.M.A. 28528/2024 (exemption from filing certified copies of annexures)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 3408/2024

3. The present application is filed seeking pre-arrest bail in FIR No.289/2023 dated 05.12.2023, registered at police station Special Cell, for offences under Sections 419/420/466/471/389/170/120B of the Indian Penal Code, 1860.
4. The FIR was registered on allegation that a sum of ₹55,00,000/- was transferred from the complainant's account fraudulently. The complainant alleged that the accused persons telephonically contacted her impersonating as police officials from Lucknow Police and threatened her regarding registration

BAIL APPLN. 3408/2024

Page 1 of 4



of case of human trafficking and money laundering and thereby, forced her to transfer the said amount to the bank account of Basudev Builders & Developers Pvt. Ltd.

5. The learned counsel for the applicant submits that no amount of money was transferred in the account of the applicant.

6. He submits that the alleged cheated amount was transferred in the account of Akshay Wagh (proprietor of Basudev Builders & Developers Pvt. Ltd.) and Dilip Kumar Soni. It is alleged that the money was thereafter transferred into twelve different accounts.

7. The learned Additional Public Prosecutor for the State submits that though the applicant has joined the investigation but he is not cooperating. He submits that the mobile phones of the applicant were used in the commission of an offence and the said mobile phones has not been produced till date by the applicant.

8. It is the contention of the applicant that he has been falsely implicated in the present case. The applicant further states that the device was handed over, however, the prosecution claims that the same is not the one which is used in the commission of the crime. It is not the case of the prosecution that the applicant was the one who induced or allured the complainant in any manner. It is an admitted position that the accused Dilip Kumar Soni and Akshay Wagh on whose account the alleged cheated amount was transferred have already been admitted on bail.

9. It is not in doubt that an order for grant of pre-arrest bail cannot be passed in a routine manner so as to allow the accused to use the same as a shield. At the same time, it cannot be denied that great amount of humiliation and disgrace is attached with the arrest. In cases where the accused has joined investigation, and is not likely to abscond, the custodial interrogation should be



avoided.

10. It is trite law that the accused person not confessing to the allegations levelled against him and not make self-incriminating statements, cannot be said to be non-cooperation with the investigation [Ref. ***Bijender v State of Haryana : Special Leave to Appeal (Crl.)No. 1079/2024***], decided on 06.03.2024].

11. It is not in dispute that the antecedents of the applicant are clean.

12. In view of the above, it is directed that the applicant, in the event of arrest, be admitted on bail on furnishing a bail bond for a sum of ₹25,000/- with one surety of the like amount subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant shall not leave the boundaries of the country without informing the IO/ SHO concerned;
- c. The applicant shall not contact the witnesses or tamper with the evidence in any manner;
- d. The applicant shall give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;
- e. The applicant shall provide the address of his residence to the concerned IO/SHO and shall not change the same without informing the IO/SHO.

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 application seeking cancellation of bail.

14. It is clarified that any observations made in the present
BAIL APPLN. 3408/2024

Page 3 of 4

order are for the purpose of deciding the present 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 application is allowed in the aforementioned terms.



AMIT MAHAJAN, J

SEPTEMBER 20, 2024

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