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

\+ BAIL APPLN. 3551/2024, CRL.M.A. 29739/2024

TAYYAB .....Petitioner

Through: Ms.Sheela Aswani, Adv. (through VC)

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr.Mukesh Kumar, APP for the State.

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

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

% **03.10.2024**

1. Present petition has been filed for anticipatory bail in case FIR no.0030 registered under Section 420 IPC at PS Cyber Police.

2. The present FIR was lodged on the complaint of one Mishra Rogathi Mohta and Nakul Mohta for wrongful loss and cheating of Rs.1,35,000/- by unknown accused persons. Allegedly, the complainant received a call on her mobile from 9718326530, 9285265985 and 7082830472@PAYTM. The complainant alleged that on 07.08.2023 at around 11.15 p.m. while she was in the Supreme Court for hearing, she got a call on her mobile no. 9899705974 from an unknown mobile no. 09285265985, who claimed himself to be acquaintance of her father. The caller stated that he owed Rs.15,000/- to her father which he would be transferring to the complainant's UPI ID. The caller then shared a screen shot on her WhatsAPP showing that payment of Rs.10,000/- has been made on her UPI account and further

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messaged that he would also be transferring the balance amount of Rs.5000/-. Later the caller shared a screen shot and stated that he has mistakenly transferred Rs.50,000/- instead of Rs.5,000/- and requested refund/return of Rs.45,000/- to 7082830472. The caller persistently called the complainant to refund the money immediately and started harassing her. The complainant trusting assurance transferred Rs.45,000/- at 1.33 p.m. in the account of Mr.Sahil with UPI ID 7082830472@paytm. However, the complainant received a message that transaction of Rs.45,000/- was reversed and amount of Rs.45,000/- was credited back to her account. The complainant alleged that the messages were being sent by the accused persons dishonestly only to induce her to believe that the transactions have been reversed. The complainant again made a transaction of Rs.45,000/- on the new paytm UPI in the name of Kuldeep Singh as told by the accused. As the caller was harassing the complainant, the complainant requested her husband Nakul Mohta to transfer Rs.45,000/- to the account. Allegedly, Nakul Mohta also got a message that the transaction has been reversed. The accused persons allegedly kept on sending the wrong messages and in this way allegedly accused cheated the complainant and her husband in the sum of Rs.1,35,000/-.

3. Learned counsel for the petitioner states that the petitioner's name did not appear in the FIR and he has been implicated illegally on the basis of the disclosure statement. The anticipatory bail application moved by the petitioner before the learned trial court was rejected by the learned trial court vide order dated 06.09.2024.

4. Learned APP states that in fact during investigation the money trail was

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found and it was revealed that three transactions of Rs.45,000/- were credited to the account of Sahil son of Sanjay, Lakhwinder Singh and Kuldeep Singh. Learned APP submits that the amount of Rs.45,000/- which was credited to account of Sahil was further transferred to the account of Lakhwinder Singh and total amount of Rs.90,000/- was withdrawn in the area of Bharatpur Rajasthan and Rs.45,000/- was withdrawn from PS in Jurhera area Bharatpur, Rajasthan. Learned APP submits that during investigation Kuldeep Singh disclosed that he came in contact with the present petitioner and Azruddin, who told him that they cheat the people through various means of cyber fraud and need bank accounts to siphoned off the cheated amount. Lakhwinder Singh also joined the investigation and disclosed that his account was hacked by one Anshul Singh resident of Fazilka, Punjab.

5. Learned APP submits notice under Section 41A Cr.P.C. was served upon the petitioner. The raids were also conducted but he did not join the investigation. The NBWs were issued. However, same could not be executed as the petitioner is avoiding arrest. It has further been submitted that the proceedings under Section 82 Cr.P.C. has been executed against him at his residence.

6. The discretion under Section 438 Cr.P.C. is a judicial discretion which has to be exercised with circumspection. The present case is a case of cyber fraud which is rampant these days. The innocent people are being cheated. It is very difficult to catch the real culprit in such cases and for this purpose thorough investigation is required. The petitioner in this case is evading the process and he was not found despite issuance of NBW and the process under Section 82 Cr.P.C. In such like cases the

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court considers the discretion of anticipatory bail cannot be exercised. Hence, the petition along with the pending applications is dismissed.

DINESH KUMAR SHARMA, J

OCTOBER 3, 2024

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