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

\+ BAIL APPLN. 3995/2024

LIYAKAT KHAN @ LIYAKAT ANSARI @ MD LIYAKAT
.....Petitioner

Through: Mr. Rakesh Kumar and Mr. Pawan Kumar, Advocates.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Satish Kumar, APP with SI Manjeet Singh, IFSO, Special Cell, Dwarka, Delhi

**CORAM:**
**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

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

% **04.11.2024**

**<u>CRL.M.A. 32985/2024</u>**

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

**<u>CRL.M.A. 32986/2024</u>**

3. This is an application under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS" hereinafter) [earlier under Section 482 of the Code of Criminal Procedure, 1973 ("Cr.P.C." hereinafter)] filed on behalf of the applicant seeking condonation of delay in re-filing the captioned bail application.

4. For the reasons stated in the application, the delay of 09 days in re-

filing the captioned bail application is condoned.

5. The application stands disposed of.

**BAIL APPLN. 3995/2024**

6. The instant bail application under Section 482 read with Section 528 of the BNSS has been filed on behalf of the applicant/accused seeking anticipatory bail in FIR No.120/2022 registered for the offences punishable under Sections 420/120B/34 of the Indian Penal Code, 1860 at Police Station-Special Cell.

7. Learned counsel appearing for the applicant/accused submitted that no crime has been committed by the applicant/accused as alleged in the FIR and he is an innocent person. It is submitted that the police, particularly, the Investigating Officer is trying to falsely implicate the applicant in the instant case.

8. It is submitted that at the time of registration of the FIR, the present applicant/accused was not named and on 6th January, 2024, when the applicant's house was raided, he was not found in the house. It is further submitted that in the month of March, 2024 also, when the applicant's house was raided by the investigating agency, he was not found in the premises. It is submitted that subsequently on 4th June, 2024, a notice under Section 41A of the Code of Criminal Procedure ("Cr.P.C" hereinafter) was served on the applicant and pursuant to which the applicant filed an application seeking anticipatory bail before the learned Court below. Learned counsel for the applicant submitted that on the direction of the learned Court below, the applicant appeared before the Investigating Officer on 3rd July, 2024 when his statement was recorded.

9. Learned counsel for the applicant submitted that since the name of the

petitioner/applicant was not mentioned in the FIR, no question of cooperating with the investigating agency arises. However, it is submitted that the applicant does not have any criminal antecedents and is ready to cooperate with the investigating agency. Therefore, the applicant/accused may be granted anticipatory bail.

10. *Per contra*, Mr. Satish Kumar, learned APP appearing on behalf of the State alongwith the Investigating Officer vehemently opposed the instant application and handed over a copy of the Status Report, which is taken on record.

11. It is submitted that the co-accused namely Mr. Salman Ansari disclosed that the applicant/accused is the mastermind/kingpin of the cyber fraud and used to commit similar offences with the connivance of the other persons who provided him the details of the bank accounts and SIMs on fraudulent identities. It is submitted that the aforesaid co-accused also disclosed details about the IMEI No.86683004391475 vide which the alleged fraudulent SIM bearing No. 7407647253 (used to interact with victim) was used by the present applicant.

12. It is further submitted that there is sufficient evidence collected by the investigating agency which show that the instant applicant used his number 7070156487 in the Oppo handset having IMEI No.86683004391475, in which the alleged fraudulent SIM bearing No. 7407647253 was used.

13. Learned APP submitted that the cheated amount has been allegedly transferred in seven different bank accounts including the bank account number 201011987876 having registered mobile number 8250251214. He further submitted that location of both the aforesaid numbers mentioned in the FIR, i.e., 7407647253 and 9827368117 and the above mentioned mobile

number 8250251214 was traced to Bara Charpa, Margomunda, Deoghar, Jharkhand and the location of the mobile number of the applicant i.e. 7070156487 was also traced to Bara Charpa, Margomunda, Deoghar, Jharkhand.

14. Learned APP submitted that on two occasions, when raid was conducted at the residence of the applicant, he was not found there and was absconding. Learned APP vehemently submitted that when the applicant appeared before the Investigating Agency on the direction of the learned Trial Court, he did not cooperate and tried to mislead the Investigating Officer. It is submitted that there are several contradictions in the statements which are recorded by the Investigating Officer and the documentary evidences i.e. CDRs etc. Learned APP submitted that it is a wrong statement that there are no criminal antecedents of the present applicant whereas the applicant is a habitual offender of similar nature of crimes.

15. Learned APP alongwith the Investigating Officer submitted before this Court that the present applicant is the kingpin/mastermind in the instant fraud/cyber crime and the cheated amount, mobile phone, SIM card, ATM card, cheque books etc. are to be recovered from the applicant and therefore custodial interrogation is required. Thus, it is prayed that the instant application for anticipatory bail may be dismissed.

16. Heard learned counsel appearing on behalf of the parties and perused the contents made in the application as well as the Status Report. This Court has also perused the order of rejection of anticipatory bail dated 4th July, 2024 passed by the Additional Sessions Judge-05, NDD/PHC, New Delhi.

17. After considering the allegations against the present applicant/accused, this Court is of the view that the same carries of serious

nature and this Court also finds that the applicant was involved in similar offences earlier as well.

18. Further, there are specific allegations against the applicant that he is the mastermind of the crime. Moreover, it is also observed by this Court that despite giving several opportunities to the applicant to appear before the Investigating Officer to cooperate in the investigation, the applicant failed to cooperate with the investigating agency and also tried to mislead the Investigating Officer by giving incorrect statements.

19. Furthermore, in terms of the Status Report, it is observed that the applicant allegedly used his number 7070156487 in the Oppo handset having IMEI No.86683004391475, in which the alleged fraudulent SIM bearing No. 7407647253 was used. Also, the cheated amount has been allegedly transferred in seven different bank accounts including the bank account number 201011987876 having registered mobile number 8250251214 and the location of both the numbers mentioned in the FIR, i.e., 7407647253 and 9827368117 as well as the mobile number 8250251214 was traced to Bara Charpa, Margomunda, Deoghar, Jharkhand along with the location of the mobile number of the applicant, i.e., 7070156487.

20. Keeping in view the observations made hereinabove as well as the facts and circumstances of the case, and the fact that the cheated money, SIM, handset, cheque books, ATM card etc. are yet to be recovered, this Court does not find any merits in the instant application at this stage and the same is accordingly dismissed.

21. Pending applications, if any, also stands dismissed.

22. It is made clear that the observations made herein above are only for the purposes of deciding the captioned application and the same are not to

be taken as expression of this Court on the merits of the case.

**CHANDRA DHARI SINGH, J**

**NOVEMBER 4, 2024**
**NA/ryp**

*Click here to check corrigendum, if any*