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

\+ BAIL APPLN. 4612/2024 & CRL.M.A. 37734/2024 (exemption)

ABDUL KADER .....Petitioner

Through: Mr. Salman Khurshid, Senior Advocate with Mr. Bilal Anwar Khan, Ms. Anshu Kapoor, Ms. Jyoti Singh and Ms. Shama Usmani, Advocates.

versus

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

Through: Mr. Raghuinder Verma, APP for the State.
SI Mahipal Singh, Special Cell/NDR.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

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

% **14.01.2025**

1. This hearing has been done through hybrid mode.

2. The present application under Section 483 BNSS seeks regular bail in FIR No. 42/2024, under Sections 419/420/467/468/471/120B/174A/34 of the IPC, registered at P.S. IGI Airport.

3. The case of the prosecution as per the status report dated 07.01.2025 authored by Insp. Shiv Darshan Sharma, Special Cell/NDR, Lodhi Colony, is as under:-

> "1. Most respectfully it is submitted that the present case was registered at PS IGI Airport, New Delhi on the written complaint of Sh Raja Ram Meena, Air Customs Superintendent, regarding possession of seven fake driving license by accused persons namely 1. Kaku Toufiq S/o Kaku Abdul Gafoor R/o 1228 Madina Colony, Usmania Street Bhatkal, Uttara Kannada, Karnataka and 2. Hayyan Kola S/o Mohammed Hussain Amjad Kola R/o 45, Bhatkal, Bazar SO Bhatkal, Uttara Kannada, Karnataka. It was also revealed that both the above accused persons were earlier detained and apprehended by Custom officials for committing smuggling

of gold at IGI airport, Delhi with recovery of gold at their instance from another flight. On the basis of secret inputs of central intelligence agency about possibility of terror links of accused Kaku Taufiq and maryan Kola sbove,the present case was transferred to Special Celi Delhi for further investigation.

2. During investigation, police custody remand of both accused persons was obtained and on sustained interrogation, they disclosed that they were working for one Washiq @ Syed Vasique who is based in Dubai. They disclosed that Washiq used to contact them on whatsapp and asked for smuggling of gold. They agreed to work for co-accused Washiq as he was paying good amount. On the directions of co-accused Washiq, they travelled different states of India via flights and at the instruction of co-accused Washiq, they used to collect gold usually appox. 1.5 -2 Kg from the cavity of toilet of different airplanes. Thereafter, they used to deliver the same to unknown persons as per instruction received from Washiq. For each and every trip, Washiq used to send tickets to them before 3-4 hours of scheduled flights. They further disclosed that Washiq provided them fake driving licenses ID for air travel through one Abdul Kader R/o Mumbai (The petitioner). The recovered fake driving licenses were also provided by accused Abdul Kader above on the direction of Washiq and some fake IDs were returned to him after usage.

3. Both accused persons also provided phone number +91 9664043901 of Abdul Kader and CAF of above number was also found in his name i.e Abdul Kader S/o Abdul Rehman R/o R No.12/13, 2nd Floor, 228, Khatija Mansion, Nishanpada Rd, Mohd Umar Kokil Marg, Dongri, Mumbai, Maharashtra.

4. During investigation, CAF of phone number +91 9664043901 of co-accused Abdul Kader was shown to both accused persons, the photo of co-accused Abdul Kader affixed on CAF was identified by both the accused persons.

5. During investigation, notices regarding the verification of recovered fake driving licenses from accused Kaku Taufiq were sent to concerned RTO authorities of Shimoga and Mysore, Karnataka. As per reply received from concerned RTOs, all the recovered driving licenses are found forged and not issued from their authorities.

6. During investigation, call details records of accused Hayyan Kola above and accused Kaku Taufiq were analyzed in respect of their travel history on basis of their locations as per the tower location of their mobile phones. As per CDR records, total 28 travel history of accused Hayyan Kola above within 3-4 months were found but as per the replies received from different airlines, only 15 travel history in the name of accused

Hayyan Kola was found. Also total 116 travel history of accused Kaku Taufiq above since 1.1.2023, were found but as per the replies received from different airlines, only 47 travel history in the name of accused Kaku Taufiq was found.
7. During investigation, on the analysis of CDRs of accused person Hayyan Kola above with replies received from the various airlines, it revealed that two travel history of accused Hayyan Kola were matched which were done by him on fake IDs of Aastik Siddh Sharaf recovered from his possession and four travel history of accused Kaku Taufiq were matched which were done by him on fake IDs of Adam Adil Shams Pudi and Akshar Akeel Subair Babu recovered from his possession. The above IDs were provided by co-accused Abdul Kader on the direction of Washiq. Further, no record of remaining travel history done by accused persons was found so far.
8. During investigation, several raids were conducted on the residence of accused Abdul Kader above but he deliberately evaded his arrest and was
9. On 27.07.2024, absconding accused Abdul Kader who was also declared "Proclaimed person" surrendered before the Hon'ble court. He was arrested in the present case and during PC remand he also disclosed that he was working on the directions of co accused Washiq @ Syed Vasique. It is also worth mentioning here that accused Abdul Kader in his anticipatory bail application before the Hon'ble High Court admitted the fact regarding supplying of Ids to the arrested accused persons on the directions of accused Washiq @ Syed Vasique."

4. Learned Senior Counsel appearing on behalf of the applicant submits that the name of the present applicant had surfaced during the interrogation of the co-accused(s) in the registered offence. It is pointed out that the case of the prosecution is at best that he had provided certain fake documents to the co-accused persons, on the basis of which they have travelled in order to commit offences as alleged in the chargesheet. It is stated that the said co-accused(s) have been granted bail by the learned Metropolitan Magistrate *vide* orders dated 09.08.2024 and 19.10.2024. It is pointed out that the chargesheet in the present case stands filed and the matter is at the stage of consideration on point of charge before the learned Trial Court. It is further pointed out that

the present applicant has been in custody since 27.07.2024.

5. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, submits that seven fake driving licenses were recovered from the co-accused persons which were delivered by the present applicant. It is further submitted that during the course of the investigation, the present applicant did not join the investigation and was declared proclaimed offender and on account of the same Section 174A of the IPC has been added *qua* the present applicant in the chargesheet filed before the concerned Court. It is further submitted that the applicant is a flight risk and therefore, the present application may not be allowed.

6. Heard learned counsel for the parties and perused the record.

7. The case of the prosecution *qua* the present applicant is that he supplied fake driving licenses which were recovered from the co-accused persons. It is also the case of the prosecution that the said co-accused persons on the basis of said driving licenses had been travelling across India in furtherance of their illegal activities. On a pointed query from the Investigating Officer, no recovery has been effected from the present applicant. Admittedly, the other co-accused persons have already been granted bail by the learned Trial Court vide orders dated 09.08.2024 and 19.10.2024. Chargesheet has been filed and the trial is yet to commence. The applicant has been in custody since 27.07.2024.

8. In view thereof, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

i. The applicant shall not leave India without prior permission of the learned Trial Court.

ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.

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

iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.

v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

9. The application is allowed and disposed of accordingly.

10. Pending application(s), if any, also stand disposed of.

11. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of adjudication of the present bail application.

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

13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

JANUARY 14, 2025/*sn*

Click here to check corrigendum, if any