



\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on: 19.09.2023
Pronounced on: 26.09.2023

+ **BAIL APPLN. 1484/2023, CRL.M.(BAIL) 635/2023**

SULAV ADHIKARI Petitioner

Through: Mr. Anish Shrestha, Mr. Brij Ballash Tiwari and Mr. S.N. Gautam, Advocates along with applicant.

versus

STATE OF GOVT OF NCT DELHI & ANR. Respondents

Through: Mr. Naresh Kumar Chahar, APP for the State with SI Thakur Singh, P.S. Cyber West District Delhi.
Mr. Sudhir Kumar, Mr. Manish Kumar, Ms. Sonam, Ms. Swati and Mr. Shubham Tyagi, Advocates for complainant/R-2.

+ **BAIL APPLN. 1485/2023, CRL.M.(BAIL) 636/2023**

SUSAN ADHIKARI Petitioner

Through: Mr. Anish Shrestha, Mr. Brij Ballash Tiwari and Mr. S.N. Gautam, Advocates along with applicant.

versus



THE STATE GOVT OF NCT DELHI & ANR. ...Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Thakur Singh, P.S. Cyber West
District Delhi.

Mr. Sudhir Kumar, Mr.
Manish Kumar, Ms. Sonam,
Ms. Swati and Mr. Shubham
Tyagi, Advocates for
complainant/R-2.

+ **BAIL APPLN. 1515/2023, CRL.M.(BAIL) 645/2023**

ADITYA RAJ VERMA

..... Petitioner

Through: Mr. Anish Shrestha, Mr. Brij
Ballash Tiwari and Mr. S.N.
Gautam, Advocates along with
applicant.

versus

THE STATE GOVT OF NCT DELHI & ANR. ...Respondents

Through: Mr. Naresh Kumar Chahar,
APP for the State with SI
Thakur Singh, P.S. Cyber West
District Delhi.

Mr. Sudhir Kumar, Mr.
Manish Kumar, Ms. Sonam,
Ms. Swati and Mr. Shubham
Tyagi, Advocates for
complainant/R-2.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA



JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present applications have been filed under Section 438 of Code of Criminal Procedure, 1973 ('Cr.P.C') on behalf of applicants seeking anticipatory bail in the case arising out of FIR bearing no. 15/2023, registered at Police Station Cyber (West), Delhi for offence punishable under Section 420 of Indian Penal Code, 1860 ('IPC').

2. Briefly stated the facts of the present case are that the present FIR was registered on the complaint of complainant Manish Meena against the present petitioners for committing the offence of cheating by way of advertising and selling of banned product Pink Flamingo Neimo 2.0 through facebook. It was alleged that on 03.03.2023 when complainant was out of Delhi, a courier was received in his name, while he had placed no such order. However, one of his office staff members had received the courier and had paid a sum of Rs.4,000/-. It was alleged by the complainant that the payment was made by Amarjeet Kaur from her account, who is an employee of complainant. The complainant had reported the same at the office of Blue Dart where he was informed that the order was delivered by Nimbus India and the refund for the delivery was made to the complainant from Paytm mobile number registered in the name of applicant/accused, Sulav Adhikari. On the next day, when office staff of the complainant had contacted Blue Dart, they had received another call asking for



an OTP, and they were informed that the money of complainant will be received within 24 hours. Thereafter, the complainant had received his money back in the name of Sulav Adhikari whose Paytm number was ***959, and after a few hours a sum of Rs.4100/- was deducted from the account of the complainant. On 10.03.2023, a courier boy came to the complainant, but the company name was XPRESSBEES. The complainant was asked for an OTP which he refused to give and denied to receive the package.

3. The police had seized 2 shipments which had contained 12 nail polishes but shipment was prepared with a label of Pink Flamingo Neimo 2.0 product. Thereafter, learned Trial Court had dismissed anticipatory bail applications moved by applicants/accused persons *vide* order dated 25.04.2023.

4. Learned counsel for applicants states that no offence under Section 420 of IPC is made out against applicants. It is stated that applicants have been falsely implicated in the present case. It is also stated that applicants are the employees of Suson Adhikari Media (OPC) Pvt. Ltd. which conducts online sale and purchase of beauty products. The company had delivered the products ordered by complainant herein and the payment was made for them, however, a cancellation request with refund was made and entire amount was returned to the complainant. A second order was placed on 06.03.2023 by the complainant and accordingly, delivery was made. It is stated that the applicants have not cheated the complainant of any money. Therefore, bail be granted.



5. Learned APP for the State, on the other hand, states that this is a cybercrime case whereby multiple people have been cheated off by applicants herein. It is stated that applicants appeared in the police station after issuance of notice under Section 41 of Cr.P.C. and they were examined however, they did not cooperate in the investigation. It is also stated that during investigation, CDR of complainant was examined and no message was found with regard to placing of any such order. It is further stated that the employees of applicants namely, Surender Rabidas and Azhar, in their statement had stated that no product with the name of Pink Flamingo Wireless was being sold by the company. However, upon conducting further investigation, and as per data provided by Nimbus Post Pvt. Ltd. that a total of 6267 orders out of 20590 orders have been placed for the Pink Flamingo. It is stated that since investigation is at an initial stage and in order to unearth the conspiracy that has been happening on a much larger scale, custodial interrogation of applicants herein is essential. Therefore, bail be rejected.

6. I have heard arguments addressed on behalf of learned counsel of applicants and learned counsel for respondents and have perused material on record.

7. In the case at hand, applicants/accused persons have advertised and sold banned product Pink Flamingo Neimo 2.0 through Facebook. It was reported in the complaint that orders were placed in the name of complainant without his consent and



had charged him for the same. However, the payment for first order was refunded to him.

8. During investigation, it was revealed that the call detail records of complainant showed that orders for the said products were not placed by the complainant. On 09.05.2023, applicants have joined investigation and applicant/accused, Suson Adhikari had disclosed that he runs the company in the name of 'Suson Adhikari Media (OPC) Pvt. Ltd.' This company is registered on the online shopping platform of Shopify through a website. By way of this website, consumers may contact Shopify and place the orders. Then, Shopify directs those orders to accused/applicant's company, Susan Adhikari Media (OPC) Pvt. Ltd. for packaging and delivery of the orders. The applicant/accused, Aditya Raj Verma had disclosed that he runs a company in the name of 'Aditya Raj Air Media Private Limited' and his company has no connection with the company of other applicants/accused persons. However, during investigation, it was revealed that no such company in the name of 'Aditya Raj Air Media Private Limited' was found to be running and that he had vacated the property in February, 2023.

9. A perusal of records reveals that the employees of applicants/accused persons herein, in their statements, had stated that they have been working on the directions of applicants/accused persons, Suson Adhikari, and Aditya Raj Verma. This Court notices that 2 shipments were seized which had



although contained only nail polishes but the shipments were labeled with the banned product in question.

10. The APP draws attention of this court to the fact that investigation is at an initial stage and replies from different agencies are yet to be received and that applicants/accused person are probably running a large scale fake parcel delivery scam and possibly have been cheating innocent people.

11. A perusal of material on record reveals that the accused persons are allegedly running a fake parcel delivery scam on a large scale by the means of online portals. This Court observes that the perpetration of scams like the one under consideration impacts the society on a much broader scale. It not only effects the trust and confidence of individuals, but also undermines the integrity of online payment systems and digital transactions as a whole. Such scams, therefore, should be deemed as grave offenses, given their potential to serve as a significant deterrent to public trust in the sphere of online financial transactions—an indispensable pillar of our modern economy.

12. In an era where digital transactions have evolved to become fundamental component of our economic infrastructure, any threat to the security and trustworthiness of online financial interactions poses a direct challenge to the economic stability and progress of our society. Resultantly, it is imperative that we view such offenses with the seriousness they deserve, recognizing their potential to not only harm individual victims but also disrupt the foundation of online transaction.



13. During the course of investigation, it was revealed that the courier company was asked to provide the details of the shipment which were booked by the alleged persons for delivery but the complete data was never received. In this regard, this Court observes that such data is essential in order to trace such scams as the present complaint is not just a representation of an individual interest, but in the larger interest of the society, and the conspiracy needs to be unearthed.

14. A perusal of status report filed by the State reveals that the petitioners were served with a notice under Section 41A of Cr.P.C. for appearance on 14.03.2023 and had appeared before the investigating officer. However, as per status report, the petitioners herein had not co-operated with the investigation.

15. Thus, considering the overall facts and circumstances of the case and that the allegations the accused persons are serious in nature and that they are allegedly involved in running a financial scam, this Court does not deem it fit to grant anticipatory bail to the accused persons.

16. Accordingly, the present anticipatory bail applications alongwith pending applications, if any, stand dismissed.

17. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J
SEPTEMBER 26, 2023/zp