

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5759 of 2021

Applicant :- Shaimul Hassan

Opposite Party :- State of U.P.

Counsel for Applicant :- Karunesh Singh, Vijay Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

Heard Sri Vijay Pratap Singh, learned counsel for the applicant and Sri Shiv Nath Tilhari, learned AGA-I assisted by Sri Pradeep Tiwari, State Law Officer and also perused the material placed on record.

By means of the present application, the applicant seeks bail in Case Crime No.003 of 2021, under Sections 419, 420, 467, 468, 471, 120B IPC & Section 66(D) of Information Technology Act, Police Station- A.T.S. Gomti Nagar, District- Lucknow, during the pendency of trial.

As per the allegations contained in the FIR, the ATS, Gomti Nagar, Lucknow is stated to have received an information from a squealer that some international gang is preparing fake I.Ds. and garnering SIM cards on the basis of fake I.Ds. and thereupon defrauding various account holders in banks is active in the State and in the adjoining areas. The said information was developed and after a thorough investigation, various names were revealed. During the course of the said raid by the ATS, Lucknow, the applicant was apprehended on 16.1.2021 by the ATS and 23 aadhar cards, one driving licence, 5 pan cards, 2 pre-activated SIM cards, 4 mobile phones, 25 non-activated sim cards, 2 voter IDs and other incriminating articles were recovered from his possession.

Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the

present case with a view to cause unnecessary harassment and to victimize him. Learned counsel for applicant has stated that he is not the person, who had supplied any SIM cards to any accused person, whatsoever. The activation chart has not been filed by the prosecution to indicate the complicity of the applicant in the said offence. He has further stated that it cannot be ascertained at this time that it was the applicant, who had activated the alleged sim cards. The FIR is ante-time. There is no evidence to connect the recovered SIM cards to any of the case. The applicant is languishing in jail since 17.1.2021, having no criminal antecedents to his credit.

Per contra, Sri Shiv Nath Tilhari, learned AGA-I has vehemently opposed the bail application on the ground that the complicity of the applicant in the present case is established as he is the supplier of the SIM cards. The name of the applicant has come up in the statement of co-accused Faheem and after that the statement of the applicant was recorded and from his possession, the large amount of documents and sim cards have been recovered. Learned counsel has further stated that mobile no. 9084979844 has been used for opening a bank account in HDFC bank in the name of Smt. Pooja Singh and it was the applicant who got the said mobile number activated and sold the pre-activated sim cards illegally. The cloning of the alleged sim card has been done by the applicant. The said activated mobile number has been used in the anti-national activities and there is enough electronic and documentary evidence to corroborate it. In all, three bank accounts have been opened by the alleged pre-activated sim cards. The investigation is going on relating to six other bank accounts having been opened. Learned AGA-I has further stated that one Mr. Murugan of Chennai and one Mr. Suresh Babu of Palakkad Thrissur, Kerala have also been duped of their hard earned money.

Learned AGA-I has further stated that IMEI number of the mobile recovered from the possession of the applicant is matched with the details of the said sim card number. The applicant is the member of international racket of fraudsters, who had robbed the hard earned money from the bank accounts of various persons through on-line transactions. The bail application of other co-accused, namely, Tarun Surya, Harsh Kaushik @ Lodi @ Rody and Li Tengli @ Alice, have already been rejected by another Bench of this Court passed in Criminal Misc. Bail Application Nos.11757 of 2021, 13320 of 2021 and 8517 of 2021 vide orders dated 26.11.2021 and 7.12.2021, respectively. One bail application of co-accused, Sonu @ Lokesh, has also been rejected by this Court passed in Criminal Misc. Bail Application No.8298 of 2021 vide order dated 31.3.2022.

The complicity of the applicant is established by the electronic and documentary evidence referred to by the State counsel and the matter pertains to security of on-line transactions of public at large. The electronic evidence substantially establishes the involvement of applicant and the other co-accused persons including foreign nationals. The applicant is said to be the supplier of pre-activated SIM cards and the recovery of 2 pre-activated sim cards and 25 non-activated sim cards along with the documents of various persons from his possession substantiates the aforesaid allegations levelled against him. The bail application of other co-accused persons have already been rejected on different dates by passing detailed orders.

Considering the facts and circumstances of the case, submissions advanced by learned counsel for the parties, nature of offence, evidence on record, pending investigation and considering the complicity of accused, severity of punishment, at this stage, without commenting any opinion on the merits of

the case, this Court is not inclined to release the applicant on bail.

The bail application is, accordingly, rejected.

However, it is directed that the court below may proceed with the trial and reach at the logical conclusion expeditiously, if there is no other legal impediment, within a period of one year from the date of production of a certified copy of this order.

It is also clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 26.4.2022

Siddhant