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

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Reserved on: 05.12.2023
Pronounced on: 06.12.2023+ **BAIL APPLN. 3700/2023**

VINEET JHAVAR

..... Petitioner

Through: Ms. Shobha Gupta, Ms.
Sanskriti Sankutala, Ms.
Simarjeet Kaur and Ms.
Manasvi Negi, Advocates

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with SI Manoj Kumar,
P.S. Special Cell
Mr. Devanshu Chauhan,
Advocate for complainant**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J.**

1. The instant application under Section 439 of the Code of the Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of applicant seeking grant of regular bail in case FIR bearing no. 129/2022, registered at Police Station Special Cell, Delhi for the offences punishable under Sections 384/385/420/468/420/471/120B of the Indian Penal Code, 1860 ('IPC').



2. The present FIR emerges from a complaint lodged by one Rohan Kapoor wherein it was alleged that he had received SMS messages for loan for third COVID-19 vaccine dose on his mobile phone, and the SMS also had a link for checking eligibility. As soon as the complainant had opened the link, one mobile application namely Express Loan had got downloaded. When the complainant had filled the details of his Aadhaar Card and PAN Card in the application after installing it, a sum of Rs.4,200/- had got instantly credited in his bank account. However, after four days of getting/availing such loan, he had started receiving threatening calls from the developers of Express Loan Application. It was further stated by the complainant that the developers of Express Loan Application had somehow got the access to the contacts stored in his mobile phone, and to threaten the complainant, the accused persons had started sending morphed images to his contacts. During the course of inquiry, the complaint against Express Loan Application was checked on the National Cyber Crime Reporting Portal and 46 more complaints were found to have been registered against the alleged mobile application. Accordingly, the present FIR bearing no. 129/2022 was registered at Police Station Special Cell for the offences punishable under Sections 420/384/385/468/471/120B of IPC.

3. Upon investigation, another complainant namely Aditya Sharma had reported that a sum of Rs. 25 lakhs had been extorted from him in different accounts by the accused persons by morphing his images and sending to his relatives. During the course of



investigation, bank statement of complainant Aditya Sharma had revealed that via a link mentioned in the complaint, transaction amount had been received by the present accused/applicant namely Vineet Jhavar in his bank accounts. The details of such payments with transaction numbers is mentioned in the Status Report filed on record.

4. Learned counsel for the applicant/accused argues that the applicant has been falsely implicated in the present case and has been in judicial custody since 02.10.2022. It is stated that the complaint emerges from one Aditya Sharma who had told the police that he had transferred some amount in the bank account of the applicant on the pretext of a loan. In this regard, it is argued that the present accused/applicant had no knowledge of the same and is not a beneficiary of the defrauded amount. It is further stated that accused is an innocent victim who himself was not aware of the transaction which were taking place in his bank account. It is argued by the learned counsel that the prosecution has neither been able to collect any evidence that the present accused/applicant was the beneficiary of the money deposited in his bank account, nor they have been able to find the trail of money. It is also stated that the accused had given his bank account details to one of his friends in good faith and was not aware about the transactions of his bank accounts. It is also stated that his wife had also left the job who was working in a bank and therefore, he at the said time, after his friend had asked him for his bank details, he had given his bank details to him. It is further contended that the SIM cards which were connected with the bank



accounts were also given by the applicant to his friend and, thus, the applicant was not aware of any transaction that had taken place in his bank account. It is argued that the present applicant has been in judicial custody for the last one year for a crime which he has not committed and therefore, the present bail application be allowed.

5. Learned APP for the State, on the other hand, argues that there is an unexplained transaction of Rs.140 crores (approximately) in the bank account of the present applicant/accused, who is the main conspirator in the present case. It is further argued that the present applicant/accused used to operate a syndicate which used to defraud people of their hard earned money. It is stated that numerous innocent persons have been cheated of their hard earned money through such financial frauds. It is contended that the CDRs in this case support the prosecution's case that the co-accused and the present accused/applicant were in constant touch with each other. It is further stated that this Court had previously also dismissed the bail application of the present applicant on 13.02.2023 and there is no fresh ground mentioned in the present application, and therefore, bail be not granted to him.

6. This Court has heard arguments addressed by the learned counsel for applicant as well as learned APP for the State, and has perused material available on record.

7. In the present case, it was revealed during the investigation that the money which was transferred from the bank account of the complainant Aditya Sharma had been received in the bank accounts of present accused/applicant. Thereafter, the applicant Vineet Jhavar



had left all the addresses which he had used for the opening the bank accounts in question. As per prosecution, the applicant was traced through rigorous Call Detail Records and IP logs analysis since he had also switched off all the mobile phones used for opening the bank accounts, and he could eventually get arrested on 01.10.2022. It is mentioned in the status report that as per investigation conducted in the present case, the analysis of the bank accounts of the applicant reveals that the total amount of transactions in the entire case, considering the bank account of all the persons who had worked in furtherance of their criminal conspiracy, is about Rs. 140 crores. It was also discovered that the money from the accounts of applicant was immediately transferred to several other bank accounts, the details of which also have been mentioned in the Status Report. During investigation, it was also revealed that applicant Vineet Jhavar was also giving instructions regarding company compliances to his Chartered Accountant.

8. A perusal of material on record, *prima facie* reveals that the modus operandi adopted by the present applicant/accused, was as follows:

Step 1: Victim receives an SMS containing link for checking eligibility for Covid dose vaccine.

Step 2: As soon as the link is opened, one mobile application namely 'Express Loan' gets downloaded.

Step 3: The victim is then asked to fill details of Aadhaar Card and Pan Card after installing the application.



Step 4: The victim is then baited with the offer for grant of loan of small amounts and once such conditions are accepted, the victims unknowingly give access to all their contacts and images to the accused/App developers.

Step 5: Thereafter, the victims are threatened by the accused and the morphed images of the victims are shared with their contacts to extort money from them.

9. A perusal of status report on record also reveals that large numbers of complaints have already been reported from across the country in which the present accused/applicant has been found involved. The account numbers and the transaction details are also mentioned in detail in the status report filed by the prosecution which have not been denied by the learned counsel for applicant.

10. This Court notes that the modus operandi employed by cyber criminals changes and evolves every day. Sensitised to the plight of unsuspecting individuals who fall victim to deceptive mobile applications, the Courts have the responsibility to address the grievances of those who, in their pursuit of technology, end up being defrauded of their hard-earned money. The app developers take advantage of **cyber-illiteracy** of the people, who unknowingly give access to their contacts and images to a mobile application and its developer, which is then misused to extort money from them. The personal details of the innocent people are also being taken and misused for committing fraud, as in the present case.

11. The case in hand serves as an illustration of how cyber-enabled crimes are taking place in the present digital age wherein the accused



persons through a click bait link allure people towards installing an application commonly known as ‘APP’ in their mobile phones and then based on this allurement, **the cyber illiterate common citizens download them or click the link totally oblivious to the fraud which will stare them in their eyes in a matter of few minutes or hours.** The bait of getting them short term loans on a click of a button and defrauding them of their hard earned money is nowadays common and the cyber illiteracy of common citizens is being taken advantage of by such accuseds, as *prima facie* in the present case.

12. Such offences extend well beyond the immediate financial losses associated with fraudulent transactions, and it is the economy at large which suffers firstly through the immediate loss and secondly, it is the loss of the people’s trust in the online financial transactions.

13. The economic impact is two fold – first, the direct financial losses incurred through the fraud of often hard earned money of gullible people, and second, the indirect losses resulting from the diminished trust of the people in online financial transaction platforms which is **against the aspirations of an advanced Digital Bharat.** In essence, these cyber-enabled offences not only breach individual trust, but also have far reaching consequences that reverberate through the economic landscape of the country. These online frauds contribute to eroding the trust of people in the online financial transactions and thus, discourage the newcomers into entering the digital realm, which negatively impacts the overall economy of the country.



14. The Courts, particularly in matters involving cyber-enabled crimes, should consider the broader societal impact on the small and at times financially weaker investors who invest their hard earned money in the hope of gains which holds larger dreams of many.

15. This Court also takes note of the fact that the **alleged fraud in this case had taken place at the most difficult times for our country i.e. COVID-19 pandemic** and its citizens during the said period were suffering losses, having lost business due to the pandemic and were looking for survival in the market and earning for themselves. The innocent investors who had deposited Rs. 4,000/- or Rs.5,000/- in the hope of obtaining loans for survival may have even afforded to deposit this amount with difficulty. The conspiracy in the present case must have attracted thousands of investors as the money trail till date is of about Rs.140 crores, *prima-facie*.

16. This Court is also of the opinion that in this case, Rs. 140 crores were found in the bank account of the present applicant/accused and it is not convincing that he did not know about the dealings in his account statements, as the customers of the bank accounts get regular alerts about the transactions in their accounts. Further, as per applicant/accused himself his wife was also working in a private bank, and therefore they would have been aware that their bank accounts were being used by some other persons, for illegal purposes, as according to them the transactions amounting to approximately Rs.140 crores found *qua* their bank account did not belong to them.



17. Thus, considering all the facts, circumstances and aspects of the case, the conduct of applicant/accused with regard to vacating all the addresses used for opening bank accounts, and that he was apprehended only after rigorous CDR and IP logs analysis by Special Cell since he had already switched off all his mobile phones used for opening the bank accounts, this Court is not inclined to grant bail to the applicant at this stage, when the trial is yet to commence.

18. Accordingly, the present bail application stands dismissed.

19. It is however clarified that the observations made hereinabove shall not be construed as expression of opinion of this Court on the merits of the case.

20. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

DECEMBER 6, 2023/zp