

2023 SCC OnLine Del 8262

In the High Court of Delhi at New Delhi

(BEFORE SWARANA KANTA SHARMA, J.)

Vinod Kumar ... Petitioner;

Versus

State of NCT of Delhi ... Respondent.

Bail Appln. 3959/2023

Decided on December 22, 2023, [Reserved on: 07.12.2023]

Advocates who appeared in this case :

Mr. B. Singh and Mr. Akshay Singh, Advocates

Ms. Rupali Bandhopadhya, ASC for the State with Mr. Abhijeet Kumar, Advocate with SI Nitin Singh, ARSC, Crime Branch.

The Judgment of the Court was delivered by

SWARANA KANTA SHARMA, J.:— The present application has been filed under Section 439 of the Criminal Procedure Code, 1973 ('*Cr.P.C.*') by the applicant seeking grant of regular bail in case FIR bearing no. 264/2022, registered at Police Station Crime Branch, New Delhi, under Sections 170/389/387/465/471/120B/34 of Penal Code, 1860 ('*IPC*').

2. The present FIR was registered at PS Crime Branch, Delhi on the complaint of Sh. Vipul Kaushik, which he had filed on behalf of Sh. Hardev Singh SB, who is the Industrial Unit President of Nippon Paint India Ltd. having its office in Mumbai and Vipul Kaushik is the channel partner of the company. In the complaint, Sh. Hardev Singh had alleged that on 08.11.2022, he had received two separate notices of Enforcement Directorate on his Whatsapp, one for his appearance and another for his colleague Kumar Hakim (who is the Director of procurement in the factory situated at Nippon Paint India - Mumbai), directing Hardev Singh and Kumar Hakim to appear before Enforcement Directorate officer Manoj Kumar Teekla in his office in Delhi on 14.11.2022. On 10.11.2022, the same notices had also been received by them via speed post. Hardev Singh had further alleged that on 05.11.2022, before receiving the said notice of the Enforcement Directorate, one Akhilesh Mishra (who is the supplier of solvents on commission basis in Nippon Paint India) had called Kumar Hakim and had told him that a big trouble was about to come over Hardev Singh however, he could help him to get rid of that trouble with the help of his contacts in Ministries. On 08.11.2022, Akhilesh Mishra had again called Kumar Hakim and confirmed about the trouble. On 10.11.2022, Hardev Singh had asked Kumar Hakim to meet Akhilesh Mishra in this regard. Thereafter, Kumar Hakim had met Akhilesh Mishra, who had

demanded Rs. 2-3 crores to settle the matter and had also asked Kumar Hakim to arrange a meeting with Hardev Singh. On 11.11.2022, Hardev Singh had informed Enforcement Directorate, Delhi about the said notices through his friend Vipul Kaushik, and from the office of Enforcement Directorate, Delhi, Hardev Singh had come to know that the said notices were fake. Accordingly, to catch the culprits red-handed, Hardev Singh had kept his conversation going on with Akhilesh Mishra and Darshan Harish Joshi (who is the buyer of mix solvents from Nippon Paint Ltd., Mumbai) to settle the matter. Akhilesh Mishra and Darshan Harish Joshi had told Hardev Singh that they have to visit Delhi to manage the matter at a higher level in the department, for which Hardev Singh has to bear their expenses and thus, Hardev Singh had arranged their flight tickets from Mumbai to Delhi and had also booked a room in Hotel The Ashok in Delhi.

3. On 14.11.2022, the Enforcement Directorate, New Delhi, had informed Crime Branch, Delhi that some individuals were attempting to extort money from a person, who lives in Mumbai, under the guise of being Enforcement Directorate officials. Thereafter, a raid was conducted at Hotel the Ashok, Chankyapuri, Delhi by Crime Branch, Delhi along with the officials of ED and a representative of the complainant i.e. Sh. Vipul Kaushik. During the raid, the accused persons Akhilesh Mishra, Darshan Harish Joshi, Vinod Kumar Patel, Dharmender Kumar Giri and Naresh Mahto were arrested. During the investigation, it was revealed that a person had arrived at the Ashok Hotel in a Ciaz car on which "Government of India" had been written. Accused Akhilesh Mishra, Darshan Harish Joshi, and Vinod Kumar had introduced him to Vipul Kaushik as the official of the Enforcement Directorate. The said person had impersonated himself as an officer of the Enforcement Directorate and had threatened the complainant to settle the matter or else he would get an arrest warrant issued against Hardev Singh. The accused persons had also disclosed that the said fake ED officer and other accused persons were present at Gole Market, Delhi. A raid was conducted near Gole Market, Delhi, and accused persons namely Devender Kumar Dubey (who had impersonated himself as an ED officer), Asrar Ali and Vishnu Prasad were arrested. It was also revealed that one Gajendra @ Guddu had driven the Maruti Ciaz car to the Ashok Hotel with fake ED official i.e. Devender Dubey. Thereafter, Gajendra @ Guddu was arrested and the said Maruti Ciaz car bearing registration number HR 51 CG 8834, on which "Government of India" was written was also recovered and seized in the present case. On 15.11.2022, during the investigation, complainant Vipul Kaushik had further revealed that on 14.11.2022, after meeting with the fake ED official at the Ashok Hotel, Delhi, Akhilesh Mishra had threatened to kill him and Hardev Singh, if they did not pay the money. On the basis

of this additional information, Section 387 of IPC was added in the present case. On 18.11.2022, during further investigation, accused Arun Kumar Singh was also arrested in the present case on the basis of disclosure statements made by the accused persons and Call Detail Records (CDR). During the investigation, call recordings were found in the mobile phone of Akhilesh Mishra, which revealed the active participation of Darshan Harish Joshi in this conspiracy.

4. After concluding investigation, charge-sheet was filed on 14.01.2023. The FSL report/result regarding the CCTV footage and mobile phones of the accused persons is still awaited and will be filed through supplementary charge-sheet.

5. Learned counsel for the present accused/applicant argues that the applicant has been falsely implicated in the present case and has been in judicial custody since 14.11.2022. It is stated that charge-sheet has already been filed on 13.01.2023, however, the charges have not yet been framed. It is further stated that four co-accused persons have already been granted regular bail and two co-accused are out of custody from interim bail, on medical grounds. It is also submitted that applicant is suffering from claustrophobia and several other ailments and therefore, he be released on regular bail.

6. Learned ASC for the State, on the other hand, argues that the allegations against the applicant are serious in nature, and he was in constant touch with other accused persons to get the money extorted from the complainant. It is stated that the applicant was apprehended from Room No. 731 of Hotel Ashok, where he was present with other accused persons. It is also stated that the complainant had identified the present applicant since he along with co-accused Akhilesh Mishra and Darshan Joshi had received the fake ED Officer at Hotel Ashok and had introduced him to the complainant. Therefore, it is prayed that the present application be dismissed.

7. This Court has heard arguments addressed on behalf of both the parties, and has perused the material on record.

8. In the present case, there are specific allegations against the accused persons of impersonating as officer of Enforcement Directorate and extortion of money by extending threats of implication in a false case to the complainants.

9. A perusal of record and chargesheet reveals that the present applicant was one of the main conspirators in the present case, who was in constant touch with the co-accused persons. He was given the responsibility of sending fake notices to Hardev Singh and for arranging persons who could further arrange a government vehicle and a person who could impersonate as ED officer. The present applicant was apprehended from the hotel in question, where the co-accused persons had threatened and attempted to extort money from the complainant.

The present applicant was also identified by the complainant as the person who along with co-accused persons Akhilesh Mishra and Darshan Harish Joshi had received the fake ED officer who had threatened the complainant. CCTV footage also reveals that the accused was present in the hotel in question at the time of commission of alleged offence.

10. Thus, the present case is a case of criminal conspiracy hatched by all the accused persons in furtherance of their common intention to extort money from the Hardev Singh and Kumar Hakim, who were President and Director of Nippon Paints India-Mumbai respectively and having, therefore, worked towards the same by making phone calls, meeting the complainant and other facts enumerated in the preceding paragraphs. This Court is of the opinion that the allegations against the accused persons are serious and grave in nature. Furthermore, since the money was being taken in the name of Enforcement Directorate on pretext of getting them exonerated from fictitious case which was never registered, and fake summons allegedly issued by ED were also prepared and issued by the accused persons in furtherance of their common intention, this Court finds no ground for grant of bail, at this stage, as the trial is yet to commence.

11. Accordingly, the present bail application stands dismissed.

12. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The judgment be uploaded on the website forthwith.

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