

Court No. - 65

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Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16416 of 2021

Applicant :- Karam Allahi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashwini Kumar Awasthi, Anurag Vajpeyi, Manish Tiwary (Senior Adv.)

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

Matter taken up through video conferencing.

Heard Sri Manish Tiwary, learned Senior Counsel assisted by Sri Anurag Vajpeyi, learned counsel appearing for the applicant, Sri Ankit Srivastava, learned brief holder for the State and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Karam Allahi, seeking enlargement on bail during trial in connection with Case Crime No. 129 of 2021, under Sections 420, 467, 468, 120-B I.P.C. and Section 4, 20, 21, 25 of the Indian Telegraph Act, registered at P.S. Phase-3, Noida District Gautam Budh Nagar.

The prosecution case as per the first information report is that a joint raid was conducted at a premise in NOIDA by the Department of Telecom, UP ATS and UP Police as per the input of Delhi LSA, Department of Telecom regarding running of illegal international telecom set up and during the raid the raiding team found that there was a regular establishment set up which was illegally routing calls from foreign countries to India. A total of 800 SIP channels were found running at the site. The illegal international call set up was terminating foreign calls in India by bypassing the legal international and national gateway and displaying CLI No. 91-1206901700 on Indian telephone numbers. Huge number of outgoing calls from the set up landing on Indian telephone/mobile numbers were discovered. Appliances were recovered which were in a running condition and the exchange was working in routing international calls into India through the set up. The said articles and appliances mostly of them were in running condition and were duly installed and there were some other articles newly purchased which were to be installed were found. It was assessed that approximately

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Rs.45 Lacs was the loss to the Government exchequer by the act of the accused by bypassing the legal international gateways. The amount was as such calculated approximately and the total financial loss was under calculation. The applicant was arrested from the spot. One Basit Farooq Dar was the partner for the business with the applicant which in the name and style of M/s.Beststar BK Enterprises Private Limited in Sector 63, Noida District - Gautam Budh Nagar. It is further mentioned in the FIR that the *modus operandi* of the accused persons caused huge loss to the government exchequer and the accused gained advantage for themselves dishonestly through fraudulent means. It was further mentioned that such type of calls posed a great threat to the national security as the international calls remained unmonitored by law enforcement agencies. The foreign callers in such calls remain unknown due to display of Indian CLI in place of the original and actual CLI and routing was internet based which was very difficult for the law enforcement agencies of the country to monitor and to trace any suspicious call involved in illegal activities and anti-national activity and thus serious threat to the national security was there due to the same.

Learned Senior Counsel for the applicants has argued that the entire set up as found by the raiding team was suggestive of a business of phone marketing. It is argued that the applicant is a partner in M/S.BKK Enterprises Private Limited. It is further argued that the material as recovered is used for running a departmental portal and not for any other use. The amount of Rs.45 Lacs as mentioned in the first information report is without any basis. It is argued while placing paragraph 12 of the affidavit in support of the bail application that the applicant is a hard working individual and has family to foster. He has started a business venture by establishing his company M/s.Beststar BK Enterprises Pvt. Limited and has started an online marketing business. It is further argued that the said company has not been made as an accused and as such, the first information report suffers from a patent defect as per the settled principles of law. It is argued that no document has been fabricated by the applicant and there was no wrongful loss to anyone and no wrongful gain to the applicant. Learned Senior Counsel has placed paragraph 25 and 26 of the affidavit and argued

that the offences under the Indian Telegraph Act are bailable and non-cognizable in nature. It is argued that the applicant is having no criminal history to his credit which though is not pleaded in the bail application but as per the instructions he made a statement for the same. It is argued that the applicant is in jail since 10.2.2021.

Per contra, learned AGA vehemently opposed the prayer for bail and argued that the first information report is a detailed report giving the details of the recovered items in extenso. The set up was found working and there was regular work through the instruments by which huge number of calls had landed and were transferred giving a different CLI number within the country. It is argued that raiding team also found many other appliances which were to be made operational. It is argued that the said set up was posing serious threat to the country and the law enforcement agencies were unable to perform their work properly due to the working of the set up. The government exchequer has suffered huge financial loss also. The calls bypassing through the set up remained unmonitored which was great threat to the national security. Learned brief holder for the State although did not dispute the fact as per his instructions that the applicant is not having any criminal antecedent. It is lastly argued that prayer for bail be rejected.

After hearing the learned counsel for the parties and perusing the record, it is apparent that a joint team raided the premises where the applicant was arrested and huge amount of electronic instruments and gadgets were recovered which was in a working condition and the whole set up was in a working condition which was instrumental in illegally routing calls from foreign countries to India through internet by which the actual calling number was not displayed. The said act was an act by which there was a serious threat to national security. Certain other appliances and instruments were recovered which were awaiting to be installed. The activities cannot be termed anything less than an organized crime.

Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is **rejected**.

The party shall file computer generated copy of such order downloaded from the official website of High Court

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Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 9.7.2021

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