Bail Applications no. 2445/2021 and 2446/2021
State v. Mohd. Arshad Ansari and Mohd. Mehruddin Ansari
FIR No. 178/2021
P.S Special Cell
U/s 419/420 IPC & 66 IT Act.

17.12.2021

Present: Sh. Irfan Ahmed, Ld. Addl. PP for State with IO.

Sh. Vishal Raj Sehijpal, Ld. Counsel for applicants/ accused persons.

Present are two separate applications moved on behalf of applicants/accused persons Mohd. Arshad Ansari and Mohd. Mehruddin Ansari for grant of anticipatory bail. It is submitted that applicants/accused persons have been falsely implicated in the present case as they have nothing to do with the alleged offence. It is submitted that both the applicants are absolutely innocent and they are not the beneficiaries of the alleged cheating. It is submitted that no recoveries are to be effected at their instance. It is further submitted that the victim has already settled the dispute with the accused persons and a sum of Rs.15.0 lacs has already been paid by the accused persons. It is submitted that even eight co-accused persons have already been enlarged on bail by the Ld. Trial Court and now placing any restraint upon the liberty of the applicants/accused persons would tantamount to the travesty of justice.

It is submitted that there is no incriminating piece of evidence against the applicants/accused persons to connect them with the alleged offence nor the alleged mobile numbers belong to them nor they have ever used them for commission of alleged cheating. It is further submitted that applicant/accused Mohd. Arshad Ansari is aged about 25 years and he is the only bread earner in the family comprising of three minor children. It is submitted that charge-sheet has already been filed and no fruitful purpose would be served by keeping them behind the bars. It is thus prayed that both the applicants may be enlarged on anticipatory bail.

Ld. Addl. PP has vehemently opposed the bail applications arguing that both the applicants/accused persons alongwith their other associates were involved in cheating the complainant on the pretext of providing him assistance regarding cheque related query. It is submitted that accused persons shared fake website with the complainant having logo of Canara Bank resembling as the official website of Canara Bank and after the complainant downloaded the application, a sum of Rs.27.0 lacs was fraudulently transferred from his bank account to eight different bank accounts. It is submitted that both the applicants designed fake Canara bank website for the purpose of cheating and they also used to run advertisements on Google for customer care services and whenever customer used to call on numbers mentioned in Google ads, applicant Mahruddin used to transfer calls to the accused persons on paid basis and some times, he used to attend the call himself.

Ld. Addl. PP for State has forcefully resisted the innocence plea of both the applicants. It is submitted that both the applicants are part of a criminal syndicate indulged in duping gullible victims by creating fake and forged websites. It is submitted that applicants used to make telephone calls to the victims. It is submitted that for recovery of mobile phones used for commission of the alleged offence and to unearth the modus operandi adopted by the accused persons to prepare fake and forged websites, their sustained custodial interrogation is indispensable. It is further submitted that applicants are evading their arrest and process u/s 82 CrPC has been issued against them.

Furthermore, with respect to the alleged settlement, it is submitted by Ld. Addl. PP that the total cheated amount is Rs.27.0 lacs and the victim, obviously being in a hapless situation was compelled to accept a paltry sum of Rs.15.0 lacs. It is submitted that not only the settlement is unconscionable but even the alleged offence is non-compoundable in nature. It is submitted that there are specific allegations that the accused persons created fake and forged website and thus besides the offence u/s 420 IPC, Section 467/468/471 IPC alongwith Section 66D of IT Act are also attracted in the instant case.

It is submitted that Section 467 IPC is punishable with Life Imprisonment and the alleged offence are non-compoundable in nature. It is pointed out that not only the applicants/accused persons are avoiding to join the investigations but have also started tampering with the evidence by influencing the victim.

The submissions of Ld. Addl. PP seems to bear weight. The manner in which the investigation is being conducted reflects a very sorry state of affairs. I am appreciative of my limited role while hearing the anticipatory bail applications but the submissions made by Ld. Addl. PP cannot be ignored. The Court is at a loss to understand as to why the investigating agency is shying away in invoking the appropriate provisions of law in the instant matter. It is really unfortunate that eight persons have been bailed out on the basis of half baked facts and shoddy investigation.

The worthy DCP is requested to look into the matter personally and ensure a fair and impartial investigation in the case at hand. It is further expected of the worthy DCP that he shall apprise the Ld. CMM, NDD about the remedial action initiated at his end to ensure fair and impartial investigation in the instant matter.

I concur with Ld. Addl. PP that considering the nature of allegations, modus operandi of the alleged offence and the conduct of the applicants/accused persons, they do not deserve any indulgence from the court. Both the bail applications at hand are bereft of any merits and the same are accordingly dismissed.

Copy of the instant order be sent to worthy DCP and Ld. CMM, NDD for necessary information and compliance.

Copy of the order be given dasti.

Both the applications are disposed off accordingly.

(Dharmender Rana)
ASJ-02, NDD/PHC/New Delhi
**17.12.2021**