

# Bharat Goel vs State Govt Of Nct Of Delhi on 18 August, 2022

**Author: Asha Menon**

**Bench: Asha Menon**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

20.

+ BAIL APPLN. 2444/2022, CRL.M.A. 15947/2022 (for exempt  
BHARAT GOEL ..... Petit

Through: Mr. Ramesh G  
with Mr. Sha  
Ishaan Jain  
Advocates.

versus

STATE GOVT OF NCT OF DELHI

Through: Mr. Sanjeev  
State with I

21.

+ BAIL APPLN. 2446/2022, CRL.M.A. 15965/2022 (for exempt  
SUMIT NANDRAJOG ..... Petit

Through: Mr. J.P. Sen  
Mr. Akshay B

versus

STATE GOVT OF NCT OF DELHI

Through: Mr. Sanjeev  
State with I

22.

+ BAIL APPLN. 2447/2022, CRL.M.A. 15966/2022 (for exempt  
JATIN ALIAS J D NANDRAJOG ..... Petit

Through: Mr. J.P. Sen  
Mr. Akshay B

versus

STATE GOVT OF NCT OF DELHI

Signature Not Verified

Digitally Signed

By:MANJEET KAUR

Signing Date:18.08.2022

20:50:33

BAIL APPLN. 2444/2022 & other connected matters

Through: Mr. Sanjeev  
State with I

CORAM:

HON'BLE MS. JUSTICE ASHA MENON  
ORDER

% 18.08.2022 CRL.M.A. 15947/2022 (for exemption) in BAIL APPLN. 2444/2022 CRL.M.A. 15965/2022 (for exemption) in BAIL APPLN. 2446/2022 CRL.M.A. 15966/2022 (for exemption) in BAIL APPLN. 2447/2022

1. Allowed, subject to all just exceptions.

2. The applications stand disposed of.

3. These applications have been filed under Section 438 read with Section 482 Cr.P.C. for grant of anticipatory bail to the applicants/accused in case FIR No.161/2022, registered under Sections 419/420/120B/34 IPC & Sections 66C/66D of Information Technology Act, 2000 (for short, 'I.T. Act'), at Police Station Crime Branch.

4. Mr. Ramesh Gupta, learned senior counsel arguing on behalf of the applicant/Bharat Goel, submitted that there was no material to connect this applicant to the commission of the offences inasmuch as the only allegation is that the premises were owned by the applicant/Bharat Goel. Admittedly, the applicants were running a restaurant in the name of 'Dolphin' at Uttam Nagar, Delhi alongwith a co-accused Sumit Nandrajog and a few people employed at the restaurant were using the premises at WZ-133A, Uttam Nagar. The alleged call centre being run illegally was not in the know of the applicants and they could not be saddled with responsibilities for running it. It was further submitted that the offences under Sections 66(C) & 66(D) of the I.T. Act were bailable offences and so was the offence under Sections 419 IPC.

5. With regard to Section 420 IPC, it was argued relying on the judgment of the Supreme Court in Md. Ibrahim & Ors. Vs. State of Bihar & Ors., (2009) 8 SCC 751, that without a victim no offence under Section 420 IPC was made out. It was contended that the statement made to the police by Chirag Mullick who was found in the premises could not be used against the applicants being one under Section 162 Cr.P.C.

6. The learned senior counsel also submitted that the applicants were ready and willing to participate in the investigations, but no ground was made out for custodial interrogation inasmuch as everything has been seized by the police in the form of computers and diaries etc. Hence, it was prayed that the anticipatory bail be granted to them.

7. Mr. J.P. Sengh, learned senior counsel appearing for the applicants/Sumit Nandrajog and Jatin alias J.D. Nandrajog, while adopting all the above arguments also submitted that the applicant Sumit was not the owner of the premises which had been raided neither had he employed Chirag Mullick nor was he a 'Techie'. As such no role could be ascribed to him for the commission of the alleged offences. There was no purpose in requiring custodial interrogation of these applicants. Moreover, it was pointed out that the said Chirag Mullick had already been granted regular bail.

8. Mr. Sanjeev Bhandhari, learned Additional Standing Counsel for the State, opposed the grant of bail, submitting that the matter was not as simple as was being portrayed. He submits that on 29th July, 2022, secret information was received that large scale cyber cheating through a call centre was going on from the 2nd floor of the property being WZ-133A, Uttam Nagar, Delhi by means of software such as X-lite software. The accused persons used to enter into the computer systems of unwary users and when such users were faced with the pop-up that showed that their computer system had been attacked, they would try to reach out to a computer support help line through Google search engine, but when such search was made, instead of going to the correct computer support help line, the call was diverted to the laptop of the accused persons. The accused persons present at the call centre would impersonate himself as a computer tech supporter, to the US resident victims and ask for deposit of 50 to 500 dollars in the mode of gift voucher numbers i.e. Ebay, Google Pay, Steam etc. for rectifying the error. Those who could not buy the gift voucher were asked by them to deposit/transfer money in USA based fake accounts.

9. The learned ASC submitted that when the raid was conducted at the Uttam Nagar premises, Chirag Mullick was found actually operating on a laptop and he tried to delete some information but was apprehended. A total of five laptops, one router and one mobile phone were seized. Two diaries were also seized which recorded payments having been made to the accused persons. These have been submitted for perusal of the court and returned to the Investigating Officer. The details of the account of the applicant/Jatin has also been submitted for perusal and it is pointed out that in one day several credits of Rs.5000 were made into the account of the accused Jatin which indicated his participation in the entire scam.

10. It was further submitted that custodial interrogation was required of the accused persons as money in foreign currencies have been transferred to them. Possibility of hawala transfers was also to be traced. The scam was going on for almost two years and detailed investigations were required to know the extent of the scam and to unearth the conspiracy and to identify call vendors and blockers who were receiving and giving money after converting dollars into Indian currencies. Reliance has been placed on the judgment of a coordinate Bench of this Court in Bhanu Prakash Singh Vs. State (G.N.C.T. of Delhi), 2021 SCC OnLine Del 3018, to submit that in similar facts, the court had declined to grant anticipatory bail.

11. In rejoinder, the learned senior counsel for the applicants contends that the decision in Bhanu Prakash Singh (supra) was not focused on the nature of the offence, but on the adherence to the guidelines given in Arnesh Kumar Vs. State of Bihar, (2014) 8 SCC 273 and Section 41A Cr.P.C. and, therefore, was not applicable to the facts of the present case.

12. It was argued that the question of hawala transactions was beyond the scope of the present FIR as there are no offences under the Prevention of Money Laundering Act, 2002 included in the instant FIR. Moreover, if the accused persons had allegedly used the VOIP to make the calls, the offence would be under the Telegraph Act and those offences were also bailable in nature.

13. I have heard the submissions of the learned senior counsel and have considered the cited judgments and have perused the record, including the material submitted by the Investigating

Officer. There is no denial that the premises where the raid occurred namely WZ 133A Uttam Nagar belonged to Bharat Goel. These three applicants are not strangers to each other, as they are stated to be running a restaurant in the name of Dolphin together.

The person found in the premises, namely, Chirag Mullick is also not a stranger to the applicants. The claim that the premises were being used by the employees at the restaurant would indicate that whoever was in the premises were authorised by Bharat Goel to occupy the same. Five laptops, one router and one mobile phone were recovered from the premises. These are not usual articles to be found in the possession of those working in a restaurant. The premises are not described as residential, occupied as such by the employees.

14. The person apprehended had disclosed that the call centre was being run from the premises and that the applicant/Sumit was the owner of the call centre. Whatever be the nature of the said statement, the disclosure has led to the applicants. Diaries have also been recovered as also the account statement, which reflects that the amounts had been paid to the accused/applicants. The learned ASC has submitted that the investigations have revealed that while the account relating to the restaurant did not show much income, payments over a Crore of rupees seems to have been made to the accused persons, which indicate the scale of operations.

15. The investigations are at the nascent stage. The police have a duty to unearth the commission of a crime. They have a right to investigate the matter. Unsuspecting people living in the USA have been targeted allegedly by the operations of the accused persons. The trail of transfer of money through vouchers into the bank accounts of the accused/applicants from people living in the USA including through blockers and facilitators, is sufficient to establish that they are victims of the unlawful activities of the accused persons. Therefore to say that there are no victims and no offence of cheating has been committed, is unacceptable. The method and means of procurement of the data of these victims, the route through which the payments were made, the conversion of the gift vouchers etc. and the identity of the facilitators who helped convert the payments from foreign exchange into the Indian currencies are all to be determined and traced. The identity of other collaborators in crime are thus to be unearthed. The submission of the police that custodial interrogation may be required cannot be out-rightly rejected. The interest of the applicants would in any case be protected under Section 41A Cr.P.C. and the obligation on the police to follow the guidelines issued by the Supreme Court in Arnesh Kumar (supra).

16. In the light of the foregoing discussion, therefore, there is no ground made out to grant anticipatory bail.

17. The bail applications stand dismissed.

18. The order be uploaded on the website forthwith.

ASHA MENON, J AUGUST 18, 2022 ck