

**HIGH COURT OF JUDICATURE AT ALLAHABAD****CRIMINAL MISC. BAIL APPLICATION No. - 3577 of 2023**

Xue Fei@ Koei

.....Applicant(s)

Versus

Nil

.....Opposite
Party(s)

Counsel for Applicant(s) : Abhishek Chauhan, Amir Siddiqui,
Naveen Prakash, Sumant Kumar Tiwari
Counsel for Opposite Party(s) : G.A., R.P.S. Chauhan

Court No. - 69**HON'BLE ARUN KUMAR SINGH DESHWAL, J.**

1. Heard Sri Abhishek Chauhan, learned counsel for the applicant Sri R.P.S. Chauhan, learned counsel for the Union of India, Sri Rupak Chaubey, learned A.G.A.-I for the State and perused the record.

2. The instant bail application has been on behalf of the applicant, Xue Fei@ Koei, to release him on bail in Case Crime No. 408 of 2022 under Sections 419, 420, 467, 468, 471, 120B, 201 IPC and Section 14(A), 14(B), 14(C), 14AB, 14C of the Foreigners Act & 66D I.T. Act, Police Station Beta-2, District Gautam Buddha Nagar.

Factual matrix:

3. As per the prosecution story two Chinesees while entering into India through Nepal, namely, Yuyan Heyang and Loo Long were arrested by the Indian police and on the basis of information received from them the present applicant was arrested and thereafter police team reached at Flat No. 401, J.P. Greens Noida where the present applicant had been residing and during search one forged passport and aadhar card of the applicant in the name of Laakpa Sherpa was also recovered. It was also found that applicant by committing forgery in his visa (e-FRROreport) extended its validity from 2020 to 2022 though it had expired in the year 2020 and it was also found that the Flat No.401 was taken on rent on the basis of above forged document through an agreement executed between HTZN Pvt. Ltd. and its owner. Thereafter police, on the basis of information

received from the applicant also searched Hotel No. 815, Taj Hotel Gurgaon wherein several forged aadhar cards of Pete lirinuo @ Pette and other incriminating materials were also recovered. Co-accused Pette also informed that she is a friend of present applicant and she also procured sim cards and forged aadhar cards for a chinees personnel at the instruction of the applicant. On the basis of this recovery an F.I.R. was also lodged on 14.6.2022. During investigation police searched at several places including D 247/24 Sector 63, NOIDA where a factory of HTZN Technology Pvt. Ltd. was also found and Ravi Kumar Natwarlal was the director of that company and that place was also registered in the name of Tianshang Renjian Pvt. Ltd where Ravi Kumar, the director of HTZN Company also informed that officially he was the Director of HTZN Technology Pvt. Ltd. but the same is being run by the applicant and Zonson. It was informed by Ravi Kumar that the present applicant and other person involved in collecting the processors and chips from scrap material and thereafter sending them to China. Statement of several other witnesses were also recorded who stated that the applicant who is indirectly running HTZN Technology Pvt. Ltd. Company was also managing Hotel Revera, situated at village Gharbara in Noida.

5. It is submitted by the learned counsel for the applicant that the applicant is neither the director nor promoter of HTZN Technology Pvt. Ltd. Company, Tianshang Renjian Pvt. Ltd. Company or any subsidiary thereof. Merely because on the basis of confessional statement of co-accused as well as statements of some other witnesses, he has been falsely implicated as the person who is looking after entire business of HTZN Technology Pvt. Ltd. Company as well as other companies which were allegedly involved in collecting Chips and processors and sending it to China and after illegally earning money, they were siphoning off the same through crypto currency but, except the statement of some witnesses, there is no material evidence to show that the applicant was directly involvement either in transferring money or running the aforesaid company. It is further submitted by the counsel for the applicant that the applicant is in jail since 14.6.2022 and till date out of total 76 witnesses, nine witnesses have been examined, therefore, trial will take time to conclude and the applicant cannot be kept in jail till conclusion of trial

despite the fact that there is no likelihood of early conclusion of trial. It is also submitted by the counsel for the applicant that the charge sheet has not been filed for the allegation that the applicant has siphoned off money or involved in money laundering in any manner. There is also no evidence that the applicant has committed forgery in his visa as well as in preparing forged aadhar card and passport of Indian nationality. It is also submitted that the offence under Section 14 of Foreigner Act is punishable from 2 years to 8 years while the offence under Section 66 (d) I.T. Act is punishable upto three years. It is further stated that except Section 467 IPC all the offences are punishable upto seven years. To support his contention, the learned counsel for the applicant has relied upon the judgment of **Sanju Bansal Vs. State of U.P. and another passed in Special Leave to Appeal (Crl.) No. 10536 of 2023**. In this case the Apex Court has observed that on the basis of confessional statement of accused charge sheet cannot be filed. He has also relied upon **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh in Crl. Appeal No. 2790 of 2024INSC 534** wherein the Hon'ble Apex Court observed that if a foreign national is granted bail, his passport may be impounded by the trial court and certificate of assurance can be taken from the embassy of country of the accused that the under trial accused will not flee from the country and would attend the trial court proceedings, therefore, applicant may be released on bail by imposing appropriate conditions.

6. Per contra, learned A.G.A. has vehemently opposed the prayer for bail and submitted that not only from the statement of co-accused but also from other witness it appears that it is the applicant who is kingpin of entire illegal activities by extracting processors and chips from the scrap and sending them to China and also doing illegal business in India and siphoning off the money through HTZN Pvt. Ltd. Co. and Tianshang Renjian Pvt. Ltd. Co. It is also submitted by learned A.G.A. that the illegally earned money from India is being siphoned off by the applicant through co-accused Ravi Kumar who was the director of HTZN Pvt. Ltd. Co. and Tianshang Renjian Pvt. Ltd. Co. by purchasing bitcoin/crypto currency and it is not disputed that the applicant has committed forgery in his visa documents by extending the same from 2020 to 2022 and also

has prepared forged Indian Passport and aadhar card to carry out his nefarious activities in India and same is against the interest of the country. It is further submitted that as per Section 57 (11) of the Evidence Act, the Court shall take judicial notice regarding hostile relationship with a country and China is at this moment is having hostile relationship with India. There are evidences that the applicant who is citizen of China is involved in illegal activities just to damage the economy of India and the offence committed by the applicant comes within the preview of economic offences. It is further submitted that in case the applicant is released on bail, there are chances that he may flee to China and may not be available during trial as India has no extradition treaty with China. He has further submitted that one of the co-accused Twensang Dorgi has already left the country and he is still not traceable. It is lastly submitted by learned A.G.A. that the visa of the applicant has expired in the year 2020. In case the court releases the applicant on bail, he can not be kept free because he has no permission to live in India. Ultimately, he will have to remain in jail, therefore, releasing the applicant on bail in this case would be a futile exercise. It is also submitted by the learned A.G.A. that bail application of co-accused Ryn @ Ren Chao or Pete Lirinuo @ Pette, Zong Hao Zhe @ Hoj, Ashok Chaudhary, Jai Bharat Thakkar and Ravi Kumar Natawarlal have been rejected by Co-ordinate Bench of this Court and two of them Ryn @ Ren Chow and Jai Bharat have also approached the Apex Court but the Apex Court also dismissed their S.L.P. filed against the bail rejection order. It is also submitted by the learned A.G.A. that the trial of the present case could not be concluded for the reason that there are 26 accused who used to cross examine the witnesses, which is taking time. It is further submitted that the applicant is not entitled to be released on bail during pendency of the trial.

7. Sri R.P.S. Chauhan, learned counsel for the Union of India has accepted the argument of the learned A.G.A. and further submitted that in paragraph 5 of the affidavit filed by the Union of India it is mentioned that at present India does not have good relationship with China and there is no extradition treaty, therefore, if the applicant is released on bail there are chances of his fleeing away or illegally running away, therefore, ensuring the presence of the applicant during trial will not be possible.

8. After considering the submissions of learned counsel for the parties and perusal of record it is not in dispute that on the basis of information given by the applicant, his flat No. 401 J.P. Greens, NOIDA as well his room in Hotel Taj, Gurgaon were searched and there one forged passport, forged aadhar card of the applicant in the name of Laakpa Sherpa were recovered and it is also not in dispute that the applicant by tempering his visa extended the same from the year 2020 to 2022 though his visa has already expired in the year 2020. It is also not in dispute that flat no. 401, J.P. Green, Noida was given by HTZN Pvt. Ltd. to the applicant. Though the applicant was not recorded as a Director or Proprietor of HTZN Pvt. Ltd. Company, **Tian Shang Renjian Pvt. Ltd and Hotel Revera at villager Gharwara in Nodia** but the statements of the witnesses show that the applicant was actively involved in running of **HTZN Pvt Ltd Co.** as well as its subsidiary and other companies. Though there was allegation that the above companies were involved in transferring the funds into different shell companies and thereafter purchasing crypto currency and siphoning off the money from India to other company but no charge in the charge sheet regarding siphoning off the money was levelled against the applicant. The main allegation against the present applicant is that he has prepared forged passport, forged aadhar card and committed tampering in the validity of his visa and staying illegally in India. It is also clear from the statement of several witnesses that it is the applicant who himself went to the port courier office to export the packets containing chips and processors to China without any valid permission, Therefore, it is clear that there is material in the case diary which shows that the applicant was staying in India on the basis of forged passport and aadhar card and involved in illegal extraction of mobile chips and processors and sending them to China and he is indirectly involved in economic offence as well as the causing threat to the economic interest of India. As on date, the applicant has no valid visa to stay in India and there is no proper explanation why the applicant was having forged Indian passport, aadhar card and forged visa. This Court cannot ignore the relationship of India with China by overlooking the mandate of Section 57(11) of Evidence Act and there are chances if the applicant is released on bail, he may leave the country illegally as another co-accused Tansong Dorji has already left and still untraceable. One more fact is relevant that India and China has

no extradition treaty, therefore, if the applicant left the country illegally it would not be possible to bring back him to the justice. The Co-ordinate Bench of this Court has already dismissed the bail application of the co-accused, namely, **Ryn @ Ren Chao**, Pete Lirinuo @ Pette, Zong Hao Zhe @ Jon, Ashok, Jai Bhart Thakkar, Ravi Kumar and this Court is satisfied that there is material in case diary which prima facie show that the applicant has committed forgery, in preparation of passport, aadhar card and visa and staying illegally in India to carry out activities which fall under the category of economic offence, therefore, applicant is not entitled to be released on bail.

10. However, considering the fact that applicant has been in jail for about 3-1/2 years, trial court is directed to conclude the trial as expeditiously as possible.

11. According bail application of the applicant is rejected.

(Arun Kumar Singh Deshwal,J.)

November 19, 2025

Kumar Manish