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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 27th September, 2023

+ BAIL APPLN. 1555/2023 & CRL.M.(BAIL) 661/2023

MANOJ PATEL ALIAS MANOJ KUMAWAT Petitioner

Through: Mr. Vinay Vats with Mr. Tariq Ahmed,
Advocates.

versus

STATE OF NCT OF DELHI AND ANR. Respondents

Through: Mr. Aman Usman, APP for State with
Mr. Dharmendra Kumar Singh,
ACP/DIU/NDD.

**CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA**

JUDGMENT

AMIT SHARMA, J.

1. The present application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('CrPC') seeks regular bail in case FIR No. 119/2021, under Sections 406/409/420/120B of the IPC, registered at P.S. Barakhamba Road.

2. The case of the prosecution is that the present FIR was registered on the basis of a complaint made by Mr. Anil Kumar Sood (hereinafter referred to as 'complainant'). The complaint was filed against four accused persons, namely, Haqmuiddin, Islamuiddin, Taiyyab Hussain and Manoj Patel (the



present applicant). In the complaint, it was alleged that the complainant who is a retired person, suffering from cancer, was induced by co-accused Haqmuddin, who was a colleague of his daughter's immediate neighbor. It is alleged that the said accused person induced him by representing himself to be member of one of the teams at a company namely, 'BTC ADS PRO', which was trading in bitcoin. It was further represented that the said group has their own mining, shopping malls and was shortly coming with its own trading exchange like BLOCKCHAIN. It was stated that the said group had a sound business model, through which they were giving daily returns to the investors on their investments at such a rate that each investor could normally get close to double their investment in 250 days. It is stated that offer of the said company was supported by a booklet having registration details and showing their registered office as 'Coddan Cpm, 3rd Floor 120 Baker Street, London, England, W1U6TU-UK' and a website in the name of www.btcads.pro and having the email-id: support@btcads.pro. Details including photographs of persons associated with it and persons who have earned through the company were also given in the said booklet.

3. It is alleged that on being induced, the complainant gave 3 cheques of Rs. 80,800/- each to the aforesaid co-accused Haqmuddin. It is further alleged that thereafter, the other co-accused Islamuddin, on the basis of some investment prospect, took another sum of Rs. 4,00,000/- in cash from the complainant. It is stated that initially, as promised, daily returns were visible on the website of the accused company on the IDs opened in the name of the complainant. Subsequently, it is alleged that the aforesaid Haqmuddin and Islamuddin introduced the complainant to co-accused Tayyaib Hussain, who



further lured the complainant by saying that the investment was one lakh per cent safe and assured that his investment shall be returned in less than 3 months. It is alleged that on the basis of aforesaid inducement, the accused persons took a sum of Rs. 60 lakhs from the complainant over a period of one month. It is stated that 21 IDs were opened in the name of the complainant, his wife and his son. It is alleged that after 15.03.2018, the accused persons stopped sending details of investments on the website, closed the IDs as well as the website - www.btcads.pro. It is further alleged that the accused Haqmuddin and Islamuddin were reachable on their mobile phones but accused Tayyab Hussain was untraceable.

4. It is alleged that accused Islamuddin and Tayyab Hussain arranged for the complainant to meet the applicant at a hotel on 04.11.2019 where all the accused persons including the applicant assured him that they would return his entire investment on or before 13.12.2019. It was alleged to have been stated by them that the said payment would be partly made in cash and partly by way of IDs in their new company called IMAX Capital, whose WhatsApp number was given by the applicant to the complainant. It is stated that the applicant was seeing his messages sent by the complainant seeking repayment on the said number till 08.11.2019 and thereafter, he blocked the complainant.

5. During the course of investigation, the applicant did not comply with the notice under Section 41A of the CrPC and was arrested. During further investigation, it was revealed that the present applicant was stated to be the India-Pacific head of BTC ADS PRO, in the name of which several thousand people were cheated from all around the country. It is alleged that he used to



organise seminars and meetings to induce people to make investments in BTC ADS PRO and there are several videos of the present applicant making such inducements.

6. Upon completion of investigation, the chargesheet was filed before the Court of competent jurisdiction. As per the status report dated 18.05.2023 authored by Sh. Dharmendra Kumar Singh, Assistant Commissioner of Police, DIU/NDD, Mandir Marg, New Delhi, the role of the present applicant is as under:

"Accused namely Manoj Kumar Patel was actively involved in commission of crime and the scheme to cheat mass is his brainchild. He had a dream right from his childhood to live life like a king and achieve his goal, he connived and criminally conspired with each other and with co-accused. They got a web site prepared with the name of www.btcads.pro and got brochures printed giving rosy pictures about unrealistic return on the investments made by the victims. They also organized seminars and events to attract gullible victims where the potential victims were induced to make investment in their fake company. Accused Manoj Kumar Patel also opened a firm with the name of BTC Enterprises and he was the Proprietor of this firm. An account was also opened in the name of this firm and the present accused namely Manoj Kumar Patel was the authorized signatory of this account where cheated account was credited and later on the same was siphoned off in a well planned manner causing unauthorized loss to the victims and unauthorized gain to him. He had opened several other bank accounts where he received the cheated amount. In the said crime he also made partners with other co-accused namely Taiyyab Hussain, Islamu Deen and Haqmuddin along with other known and unknown accomplice. He along with other accomplice had taken money from the complainant, his family members and other victims in the name of investing the same in Bitcoin trading on behalf of the victims as such they were acting agents of the victims. Hence he is culpable of committing crime punishable U/s 406/409/420/ 120-B IPC and has committed these offences.



During course of investigation it has been found that present accused Manoj Patel had claimed to be the country head of the alleged fake company and had induced thousands of gullible persons by way of seminars, verbally and through social media platform. He was kingpin of the scheme through which he cheated thousands of victims and siphoned off crores of rupees. Several cases of similar nature have been found to be registered against him and he is in J / c in many of such cases. It has been alleged that after coming out on bail in several cases, he again indulged in this crime by forming another such website with the name of Imax Pro and BTCAdsprime, Treasure 22, Capital Gain Venture etc.

In has also come to notice that the present accused had used different dates of his birth in different documents such as 01.01.1990 used in his Adhar Card bearing No. 56580730308 and 15.08.1990 used in his Passport bearing No. Z4339784. This shows his criminal bent of mind.

Analysis of documents further show that he had used his email IDs and mobile numbers to create the domain and email ids to lure and induce general public. The same credentials were used to open bank accounts to receive cheated amount and defraud gullible victims.

Co-accused Tayyaib Hussain had filed an application for regular bail that has been dismissed by this Hon'ble Court. Subsequently he filed application for his bail in the court of Ld. ASJ. Patiala House Court that has also been dismissed on merits on 04.06.22. Now he has med an application for bail in the Hon'ble Delhi High Court and the Hon'ble Delhi High Court had directed him to deposit Rs. 10 lakh first followed another amount of Rs. 5 lakh. He has been released on interim bail and his matter has been referred to the Mediation Cell of the Hon'ble Delhi High Court for 16.03.23 and this Bail Application is fixed for hearing on 22.05.23 in the Hon'ble Delhi High Court.

It is pertinent to mentioned here that the present accused in involved in more than 35 such cases registered throughout India.

During further course of investigation it has been found that accused Manoj Patel, in criminal conspiracy with other co-accused, had purchased/ created the domain namely "btcads.pro" and had used email id as manavbtcsharma@gmail.com 10.02.20 17 as per the report supplied by the "Godaddy". They have further informed that Payment for the same was made by one Ruparam and mobile No. 8619893880 was used for the same.



Google has informed that creator of email id manavbtcscharma@gmail.com had given his date of birth as 15.08.1987 and its Recovery e-Mail as manojwcb@gmail.com. The accused had provided mobile No. 9821194771 and another mobile no. was provided as 8690654258 at the time of creation of these email ids.

Accused persons had used another email servicehelpline4U@gmail.com to lure the gullible victims. Details of this email id has also been taken from the Google and they have informed that this id was created on 18.03.2017 and the creator had given Recovery e-Mail id as purchasekaro@gmail.com and mobile No. 7405010909 as Recovery SMS.

On analysis of bank documents of accused persons, it has been found that A/c No. 91290100001235, Axis Bank, Pratap Nagar, Jaipur is in the name of accused Manoj Patel, the present accused and he has given his date of birth as 15.08.1987 and mobile no. 9821194771 to the bank while opening this account. The same personal details has been given to Google for creating email id manavbtcscharma@gmai.com that has been used by the accused persons to cheat several people in Delhi NCR, Rajsthan, Haryana and Gujrat and other states, including the present complainant.

A/c No. 111999774, Kotak Mahindra Bank, Shivam Business Centre, Kalgiri Road, Malviya Nagar, Jaipur is also found in the name of accused Manoj Patel and here also he has given his date of birth as 15.08.1987, that is the same as that of creator of domain used for purpose of cheating the complainant and other victims. Accused has also provided his email manojwcb@gmail.com to the bank and this email has also been used as Recovery e-Mail of manavbtcscharma@gmail.com. These facts confirm that accused Manoj Patel, in criminal conspiracy with co-accused had purchased the domain to cheat the complainant and others victims and all documents, email ids, bank accounts, brochures, shopping smart cards were prepared by him and his associates to induce and cheat the gullible investors and siphon off the cheated Amount.

The present accused was the main co-conspirator and the kingpin of entire scheme used to play fraud with victims of the crime and had played active role in commission of crime. He had formed different groups under him on the basis of geographical region for committing crime as mentioned above.

Several bank accounts have been found in the name of the present accused where the cheated amount used to be received from



the gullible investors and later on these monies were siphoned off. Money from several sources are found to be deposited in these accounts in cash and through other means. After cases were registered against the accused, the funds stopped coming to these accounts too. The funds collected in these accounts were gradually siphoned off.

It has been found that the present accused is involved in 40 cases having similar modus operandi and registered in several states. List of the same is attached as Annexure-A. Further investigation of the case is in progress w.r.t finding out the trail of cheated money of the complainant and other victims. The undersigned is ready to abide by any direction passed by this Hon'ble Court in this regard."

7. Learned counsel appearing on behalf of the applicant submitted that in the present case, it is stated that the cheques taken from the complainant were deposited in the account of other co-accused persons. It was argued that the amount alleged to have been cheated, as per the allegations in the present FIR has not come to the present applicant. It was further alleged that the present applicant has no connection with the aforesaid company and that he resides at Jodhpur.

8. It was further submitted that as per the chargesheet filed in the present case, no specific role has been assigned to the applicant. To substantiate the said contention, it was submitted that:

- i. It is the admitted case of the complainant that the alleged money was never deposited in the bank account of applicant or of the alleged company and the applicant was also not involved anywhere in the alleged cash transaction.
- ii. Investigating Officer has also failed to show the trail of the alleged cash flow as to how the said Rs 60 lakhs travelled to the applicant.



- iii. The allegation of the prosecution that the applicant was director of the BTC ADS PRO company does not have any substance as no documents in that regard has been filed by him on record along with the chargesheet.
 - iv. The only allegation against the applicant is that he met the complainant in a Hotel room on 04.11.2019 which is disputed by the applicant. The IO has also not put on record any CCTV footage of the said hotel to prove the claim of the complainant.
 - v. The complainant has himself admitted that Haqmuddin, Islamuddin and Taiyyab Hussain were the master minds and they cheated the complainant of Rs 60 lacs.
 - vi. Apart from this, the Investigating Officer filed an alleged WhatsApp chat where in there is message from a number alleged to belong to Applicant wherein he is assuring the complainant that he will start getting returns. This is the only material filed against the applicant and same is disputed. It is highly disputed that the said number belongs to the applicant. It is a matter of trial that same could be proved. Without prejudice, even if we take a hypothetical situation wherein the 2 applicant sent these messages, there is no mention of the amount.
9. Leaned counsel for the applicant further submitted that investigation in the present FIR is complete, chargesheet as well as supplementary chargesheet have been filed before the Court of competent jurisdiction. It was submitted that the applicant was arrested on 20.04.2022 and has been in judicial custody for more than one and a half year and since the trial is likely to take a long time, it was prayed that the applicant be released on bail.



10. In support of his contentions, learned counsel for the applicant places reliance on the following judgments:

- i. **Sunder Singh Bhati v. State, 2022 SCC OnLine Del 134** - Relying in the said judgment, learned counsel for the applicant submitted that while dealing with a similar factual matrix of an alleged multi-person fraud, a coordinate bench of this Court granted bail to the applicant therein and observed that magnitude of the offence cannot be the only criteria for denial of bail. The object of bail is to secure the presence of the accused at trial, thus, if there is no apprehension of a person fleeing from justice, then Court should be careful while disallowing a bail application.
- ii. **Ramesh v. State of Haryana, 2014:PHHC:026582** - It was submitted that in the said case, a learned Single Judge of the Hon'ble High Court of Punjab and Haryana granted bail to an a person accused of offences under Sections 148, 149, 332, 353, 186, 201, 307, 120-B of the IPC and 25, 27 and 29 of the Arms Act, 1959 observed that registration of an FIR and investigation, is *ipso facto* not to be construed as a circumstance against an accused person while considering an application for bail. The role of an accused and whether or not he would be available to attend the proceedings are the circumstances required to be considered.
- iii. **Sri Surya Teja B R v. State by Ankal Police Station, Order dated 24.04.2023 passed by the Hon'ble High Court of Karnataka in CRL.P. No. 2356 of 2018** - It was submitted that in the said case, while granting bail to a person accused of offences under Sections



304/504/506/34 of the IPC, a learned Single Judge of the Hon'ble High Court of Karnataka observed that though bail can be rejected if a person is a habitual offender and has other cases against him but at the same time, it has to be examined whether *prima facie*, the material on record discloses involvement of accused in commission of an alleged offence.

- iv. **Ravinder Gupta v. Union territory of J&K, 2022 SCC OnLine J&K 791** - Based on the this judgment it was argued that while nature of offence and severity of punishment provided for commission of alleged offence are important considerations, *prima facie* view of involvement of the person seeking bail in commission of alleged offences is also required to be taken into account.
- v. **H.B. Chaturvedi v. C.B.I, 2010 SCC OnLine Del 2155** - While placing reliance on the said case, learned counsel for the applicant submitted that even if it appears that an accused is *prima facie* guilty of alleged offences, bail cannot be refused as an indirect measure for according punishment to them. It was submitted that in the cited case, a coordinate bench of this Court granted bail to a person accused of commission of offences under Sections 420/468/478 of the IPC and observed that it cannot be said that a in all cases involving serious economic offences, bail should be invariably refused.
- vi. **Sanjay Chandra v. CBI, (2012) 1 SCC 40** - It was submitted that in the said judgment, the Hon'ble Supreme Court observed that pendency of further investigation cannot be a ground for retaining a person in continued custody.



11. *Per contra*, learned APP for the State submitted that the present applicant is the kingpin of the entire scheme which he ran in the name of 'BTC ADS PRO'. It was pointed out that nearly 34 cases are registered against the present applicant at different places, all across the country and he is running in custody in many of the said cases. So far as the present FIR is concerned, it was submitted that it is the case of the prosecution that an amount of Rs. 58,00,000/- in cash was deposited in the bank account of the accused company, i.e, 'BTC ADS PRO'. Deposit slips in relation to the said amount have been provided by the co-accused. It was submitted that the domain name of 'BTC ADS PRO' was created from the e-mail-id and mobile number of the present applicant. Learned APP submitted that the bank accounts, as mentioned above, were opened by the present applicant on the basis of IDs which were also found to be forged. It was further submitted that the present applicant is a flight risk. It was therefore, prayed that the present application be dismissed.

12. Heard learned counsel for the parties and perused the record.

13. The contention of learned counsel for the applicant that the latter has no role in the present FIR cannot be sustained in view of the material placed on record by the Investigating Officer, as discussed hereinabove. It is clear from the case of the complainant that *prima facie* involvement of the present applicant in commission of the alleged offence is made out. Similarly, the contention of learned counsel for the applicant that the cheques taken from the complainant were not deposited in the account of present applicant and therefore he is not involved in the present case cannot be accepted. It is the case of the prosecution that a sum of Rs. 58,00,000/- out of the cheated



amount was deposited in the bank accounts of the company, of which the present applicant was the proprietor.

14. The proposition of law laid down in the judgments relied upon by the learned counsel for the applicant is well settled. In **P. Chidambaram v. Central Bureau of Investigation, (2020) 13 SCC 337**, the Hon'ble Supreme held as under:

"**21.** The jurisdiction to grant bail has to be exercised on the basis of the well-settled principles having regard to the facts and circumstances of each case. The following factors are to be taken into consideration while considering an application for bail:

(i) the nature of accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution;

(ii) reasonable apprehension of tampering with the witnesses or apprehension of threat to the complainant or the witnesses;

(iii) reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence;

(iv) character, behaviour and standing of the accused and the circumstances which are peculiar to the accused;

(v) larger interest of the public or the State and similar other considerations.

[Vide *Prahlad Singh Bhati v. State (NCT of Delhi)* [*Prahlad Singh Bhati v. State (NCT of Delhi)*, (2001) 4 SCC 280 : 2001 SCC (Cri) 674] .]"

In the present case, the chargesheet as well as supplementary chargesheet have been filed. Further, it is the case of the prosecution that further investigation with respect to certain aspects of the case is still ongoing. The material on record, as stated hereinabove, collected during the course of the investigation *prima facie* demonstrates the active involvement of the present applicant. It is also the case of the prosecution that nearly 34 cases have been registered against the present applicant across India.



15. It has also come on record that the present applicant used identity documents which have been found to be forged. As pointed hereinabove, one of the bank accounts opened at the instance of the present applicant had three documents having different dates of birth. It was also pointed out that out of those documents, two aadhar cards bearing the same number had different dates of birth. The aforesaid forged documents fortify the apprehension of the prosecution that the applicant is a flight risk and if the present applicant is released on bail, he will not be available for trial.
16. In view of the aforesaid discussion, this Court is not inclined to release the applicant on bail at this stage.
17. The application is dismissed and disposed of accordingly.
18. Pending applications, if any, also stand disposed of.
19. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case.
20. Copy of the judgment be sent to the concerned Jail Superintendent for necessary information and compliance.
21. Judgment be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
JUDGE

SEPTEMBER 27, 2023/bsr