

**FIR No. 130/2020
PS Anand Parbat
State Vs. Rahul Yadav
U/s 420/467/468/471/201/120B/34 IPC**

02.07.2021

Matter is taken up through Cisco Webex.

Bail application under Section 437 CrPC for grant of bail / interim bail for a period of 90 days on behalf of applicant / accused Rahul Yadav taken up today.

Present: Ld. APP for the State joined through VC.
Ld. Counsel Sh. Ved Prakash Sharma for applicant / accused joined through VC.

In the case in hand, chargesheet has been filed.

It is submitted by Ld. Counsel for applicant / accused that accused has been falsely implicated in the present case. He further submitted that accused is in JC since 04.01.2021 and investigation has been completed. He further submitted that son of accused is 04 years old and he is unwell as he is suffering from epilepsy. On the basis of above submissions, Ld. Counsel for applicant / accused requested to release accused on bail / interim bail of 90 days as per guideline of High Power Committee of Hon'ble High Court of Delhi.

Per contra, Ld. APP for the State vehemently opposed the bail application moved on behalf of applicant / accused.

Submissions heard. Application as well as case file perused.

As per chargesheet, complainant has alleged that his bank

account was fraudulently hacked and amount of Rs.30,00,000/- was withdrawn from his bank account. It is further alleged by complainant that fraudsters got issued a duplicate SIM of complainant mobile number which was linked with his bank account and using above mobile number which was linked with his account amount of Rs.30,00,000/- was withdrawn.

Perusal of allegation in chargesheet shows that fraudsters got issued a duplicate SIM of complainant's mobile number by forging his Aadhar Card. Perusal of chargesheet shows that co-accused Arvind Yadav had obtained the SIM from Varanasi by using the forged Aadhar card of complainant. As per chargesheet, the Aadhar card contained photograph of Arvind Yadav on it whereas the other details belonged to the complainant. As per allegation in chargesheet, with the help of above issued SIM card accused persons attached some beneficiary accounts with the complainant account profile and by using above SIM card money from the account of complainant was transferred in different beneficiary accounts. Once money was transferred in different beneficiary account (Beneficiary account was opened in the name of different innocent villagers on the pretext of giving them job and salary) same was withdrawn through ATM. It is alleged in the chargesheet that accused / applicant Rahul Yadav used to withdraw above amount from Bank account of innocent persons through ATM on the direction of co-accused Ashutosh. The amount was subsequently delivered to the different persons as per their share and as directed by co-accused

Ashutosh.

It is therefore clear that allegations against accused Rahul Yadav is very serious in nature. Allegations contained in chargesheet prima facie shows that conspiracy was hatched and Aadhar Card of complainant was forged to get issued the SIM card in the name of complainant so that money could be withdrawn from the account of complainant. There is specific allegations against accused Rahul Yadav that he used to withdraw the amount from Bank Account of innocent persons which was sent in the Bank account of innocent persons after withdrawal from the bank account of complainant. There is specific allegation that accused Rahul Yadav withdraw above money through ATM on the direction of co-accused Ashutosh. It is relevant to note that chargesheet in this case has been filed containing above allegations for commission of offence u/s 419/420/467/468/471/201/120B/34 IPC against accused persons including accused Rahul Yadav.

Perusal of Court file shows that Court has taken cognizance of above offences.

It is relevant to note that offence u/s 467 IPC entails one of the punishment as sentence for imprisonment for life. As per Section 437 CrPC this Court has no jurisdiction to grant bail to accused if allegation against accused entails one of the punishments as life imprisonment. As a result of above discussion, this Court is constrained to hold that the bar contained in Section 437 (1) (i) CrPC is attracted in the present case and, therefore, this Court cannot assume jurisdiction to entertain this bail

application for grant of regular or interim bail as Section 467 IPC entails one of the punishments as life imprisonment.

Beside above, the interim bail application filed on behalf of applicant does not fall in any of the criteria laid down by Hon'ble High Power Committee of High Court.

In the light of above discussion, keeping in view all aspects i.e. bar of jurisdiction as offence u/s 467 IPC entails one of the punishments as life imprisonment as well as seriousness of allegations and gravity of offence, bail application filed on behalf of applicant Rahul Yadav stands dismissed.

Copy of this order be sent to Ld. Counsel for applicant / accused.

Order be also uploaded on official website.

[RAKESH KUMAR-II]
MM-05(West)/THC/Delhi/02.07.2021