

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37074 of 2023

Applicant :- Ashish Tomar

Opposite Party :- State of U.P.

Counsel for Applicant :- Satyendra Narayan Singh, Pankaj Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Counter affidavit filed by learned A.G.A. is taken on record.
2. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 65 of 2023, under Sections 420, 467, 468, 471 I.P.C. and 66C Information Technology Act, Police Station Basrehar, District Etawah during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant had entered into an agreement with Bajaj Financial Securities Limited (BFSL) on 26.10.2021 for the purposes of opening Demat Account and other services. For the said purpose, Aadhar Cards, Pan Cards and bank pass-books were collected from different individuals. On opening of the account, BFSL credits certain amount in the account of the applicant. The agreement executed between the applicant and BFSL is annexed as Annexure-2 to the bail application. No complaint has been made by any individual that the applicant had used the Aadhar Cards and Pan Cards for any fraudulent transaction. Not a single fraudulent transaction has been disclosed with any material particulars. The recovered SIM cards/ items were never used in any fraudulent transaction. There is no independent witness to the alleged recovery. Vague and general allegations of cheating have been made in the first information report. At this stage there is no cogent evidence on record to establish that the alleged SIM cards and other documents were used for any fraudulent transaction. The applicant is not a beneficiary of the illicit transaction. The applicant is in jail since 20.07.2023 having no criminal history and if he is released on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that at this stage there is no substantive evidence on record to establish that the alleged SIM cards and other documents were used for any fraudulent transaction nor any complaint has been made by any individual to that effect. There is no independent witness to the alleged recovery. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for almost four months and after submission of the charge-sheet there is no hope of early conclusion of trial, and no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- Ashish Tomar, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 20.11.2023

SKT/-