

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46156 of 2023

Applicant :- Anil Kumar Tiwari

Opposite Party :- State of U.P.

Counsel for Applicant :- Imran Mabood Khan

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant as well as learned A.G.A. and Sri Sanjay Singh, learned Counsel for the complainant and perused the record.

2. The FIR in question was lodged alleging that the informant had met the accused at Jhansi in the house of one Sangram Singh. It was informed by the applicant that he was a retired colonel and was provided coaching to the children, who are desirous of getting job in the Army. It was also alleged in the FIR that he would get a job to the informants. Based upon the said promise, an amount of Rs.10,50,000/- was paid to get a guaranteed job. The informant deposited substantial amount in various accounts as disclosed in the FIR including that of Shivam Sahu and Purushottam Singh. In all, as per the allegations levelled in the FIR, an amount of Rs.3,00,000/- was deposited in the name of the two accused, named in the FIR. The rest of Rs.7,00,000/- was deposited in various accounts.

3. The Counsel for the applicant argues that the entire case is based upon a false narratives. To impress the same, he draws my attention to a complaint case instituted at the behest of one Rajpal Singh against the applicant under Section 138 of the N.I. Act mainly on the ground that an amount of Rs.3,00,000/- was unpaid and a cheque when presented for encashment, returned dishonoured. The Counsel for the applicant also draws my attention to the application given by one Shivam Sahu son of Ashok Sahu wherein he had stated that he was running a cyber cafe. He also made allegations to the effect that Purushottam Singh also used to come his cyber cafe. He also made an allegation that one Rajesh Kumar Pandey and one Srivastava Ji met with Purushottam Singh at the cyber cafe. It was also alleged that Rajesh Kumar Pandey and Srivastava Ji enticed Purushottam

Singh to part with money from various persons for getting a job.

4. The Counsel for the applicant also argues that the said Purushottam Singh had also given money to the said Rajesh Kumar Pandey and Srivastava Ji. In the light of the said statement, the Counsel for the applicant argues that the main allegations in terms of the statement given by Shivam Sahu was against Rajesh Kumar Pandey and Srivastava Ji, who were fled with the money of the said Shivam Sahu and Purushottam Singh, the informant in the present FIR. It is argued that the applicant is 65 years old and is a retired army officials and has been falsely implicated in this case.

5. The Counsel for the informant, on the other hand, opposed the bail prayer by arguing that the applicant is indulging in feeing money from various persons in the garb of getting job and various forged appointment letters were issued, thus, the applicant is habitual in feeing money from the innocent persons and thus, the bail application should be rejected. He draws my attention to the fact that certain money was transferred in the name of co-accused Madhu.

6. Learned A.G.A. vehemently opposed the bail prayer also.

7. Considering the nature of allegations levelled to the effect that the applicant had enticed the informant to part with valuable security in view of getting a job and substantial amount was transferred to various accounts, which does not belong to the applicant to the extent of Rs.10,50,000/- and only amount of Rs.3,00,000/- was transferred in favour of the accused person coupled with the fact that the proceedings under Section 138 of NI Act are also pending; prima facie, the case is tried based upon the documentary evidence to be led by the prosecution, the applicant does not have any criminal antecedents and there is nothing on record to demonstrate that the applicant if enlarged on bail, would in any way adversely affect the trial and without expressing any opinion on merit, I am of the view that the applicant is entitled to be released on bail.

8. Accordingly, the bail application is ***allowed***.

9. Let the applicant ***Anil Kumar Tiwari*** be released on bail in FIR/ Case Crime No.167 of 2023, under Sections 420, 406, 467, 468, 471 IPC, Police Station Saiyan, District Agra on his furnishing personal bonds and two reliable sureties of Rs.25,000/- each to the satisfaction of the court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 1.11.2023

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