Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4076 of 2023

Applicant :- Gautam Mandal
Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Civil Secrt. Lko.
Counsel for Applicant :- Shamshad Ahmad Khan
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Shamshad Ahmad Khan, the learned counsel for the applicant, Sri Manish Kumar Pandey, the learned AGA for the State and perused the records.

2. The instant application has been filed seeking release of the applicants on bail in Case Crime No. 5 of 2021, under Sections 419, 420, 120-B IPC, Sections 66-C & 66-D of Information Technology Act, Police Station Cyber Crime, District Lucknow.

3. The aforesaid case has been registered on the basis of an FIR registered on 06.02.2021 alleging a fraudulent withdrawal made form the informant's bank account on 20.01.2021 after the informant received a call from a mobile number. The police claimed to have arrested five persons on the basis of information received from a mukhbir. Some other persons were arrested in connection with similar offences in Deogarh, Jharkhand and on the basis of their statements, the applicant was also implicated in the present case.

4. In the affidavit filed in support of the bail application, it has been stated that prior to his arrest, the applicant was not involved in any criminal case but after his arrest, he has been implicated in nine cases, in five of which he has already been granted bail. Details of those nine cases have been mentioned in the affidavit filed in support of the application.

5. The State has filed a counter affidavit opposing the bail application and it has been stated that the mobile number, from which a phone call was received by the informant, was used in commission of another crime. The bank account, in which the amount in question of that other crime was transferred, had mentioned a mobile number of the account holder, which number has been issued in the name of the applicant. A mobile phone is said to have been recovered from the applicant by the

police of Police Station Deogarh, Jharkhand but that mobile number is not the number mentioned by the informant in the FIR.

6. The co-accused Pankaj Kumar was implicated on the basis of a mobile number used in the commission of offence but he claimed that the said mobile number has not been issued in his name. The applicant has been implicated in the present case on the basis of the custodial statement of co-accused Pankaj Kumar. The co-accused Pankaj Kumar has been granted bail by this court by means of an order dated26.10.2023, passed in Criminal Misc. Bail Application No.6913 of 2022.

7. Although a charge sheet in the present case was filed on 15.03.2022, the learned counsel for the applicant has stated that till date even the charges have not been framed in the present case.

8. The learned counsel for the applicant has submitted that the applicant has been granted bail in a case of similar nature.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has been implicated in the present case solely on the basis of the custodial statement of the co-accused person and that co-accused person has already been granted bail and that the applicant is languishing in jail since 23.01.2023 and the trial is yet to commence.

10 Accordingly, this bail application stands ***allowed***.

11. Let the **applicant-Gautam Mandal** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

(i) the applicant shall not tamper with the prosecution evidence;

(ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

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(Subhash Vidyarthi, J.)

Order Date :- 30.11.2023
Ram.

Digitally signed by :-
RAM SINGH
High Court of Judicature at Allahabad,
Lucknow Bench