

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2616 of 2021

Applicant :- Anil Kumar Rai

Opposite Party :- State of U.P.

Counsel for Applicant :- Askari Husain, Moni Singh, Vishwajeet Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Vishwajeet Singh, learned counsel for the applicant, Sri Triveni Prasad, the learned AGA for the State and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 8 of 2020, under Sections 120(B), 419, 420 IPC and 66, 66(C) IT Act, Police Station Cybercrime Police Station, District Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 06.10.2020 alleging that after the informant admitted the transaction through phone pay had failed, he had made a phone call to customer care number for refund of his amount of Rs. 4500/- After sometime, the informant received a phone call asking for details of his bank account etc. for enabling refund of the amount but after the informant gave the requisite particulars, a total of Rs. 5,12,996/- was transferred from the bank account of the applicant and his wife in several installments.
4. During investigation, it came to light that the applicant's credit card was used for purchasing the domain of a website, which was involved in commission of the offence.
5. In the affidavit filed in support of the application, it has been stated that the applicant is innocent, he has been falsely implicated in the present case and that he has no criminal history.
6. The State has filed a counter affidavit annexing therewith copy of material collected during investigation. A copy of the recovery memo has been annexed with the counter affidavit but no incriminating material has been recovered from the possession of the applicant.

7. A supplementary affidavit has been filed on behalf of the applicant stating that three co-accused persons, who were beneficiaries of the offending transactions, have been granted bail in the present case and copies of their bail orders have been annexed with the supplementary affidavit.

8. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that no amount has been transferred to the applicant's account and no incriminating material has been recovered from his possession and that three co-accused persons who had received money in the transaction have been granted bail and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid case.

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

11. Let the applicant-**Anil Kumar Rai** be released on bail in Case Crime No. 8 of 2020, under Sections 120(B), 419, 420 IPC and 66, 66(C) IT Act, Police Station Cybercrime Police Station, District Lucknow 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.

Order Date :- 10.10.2023

Pradeep/-