

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3114 of 2021

Applicant :- Dheeruddin Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Shashank Singh, Ruby Chaudhary

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Ms. Ruby Chaudhary, learned counsel for the applicant and learned A.G.A. for the State.

2. This bail application has been filed by the applicant seeking bail in Cae Crime No. 07 of 2019 under section 420, 467, 468, 471, 120-B I.P.C., P.S.- A.T.S. Gomti Nagar, District- Lucknow.

3. As per the version in the F.I.R., A.T.S. U.P. received a confidential information that a person named Prakash is in contact with Pakistani nationals namely Mamu, Neer and Asar and that they together are indulging in a fake lottery system. The information was passed on to A.T.S. unit at Noida. The A.T.S. Unit, Noida, after working on the aforesaid information, informed that aforesaid Prakash, proposed to come to Mohan Nagar tiraha along with his associate Dheeruddin (the applicant herein) and that both of them shall withdraw money from certain accounts on instructions of their Pakistani handlers. On the basis of this information, two teams of police officials were constituted. The police personnels, in consonance with their plan, lay in wait for co-accused Prakash and Dheeruddin to come over. The police apprehended both and conducted search. From the possession of co-accused Prakash @ Jai Prakash Ruhela, 30 ATM cards, 9 of Punjab National Bank, 5 of Bank of Baroda, 4 of Oriental Bank of Commerce, 2 of United Bank of India, 2 of Punjab and Sindh Bank, 2 of Central Bank of India, 2 of Andhra Bank, 2 of Canara Bank, 2 of Bank of Maharashtra, driving license, certain cash, 3 mobiles, a diary and samsung tablet were recovered. The other co-accused Dheeruddin was searched and from him, a passbook of Punjab National Bank, a passbook of Corporation Bank and a passbook of State Bank of India and a fourth passbook of Union Bank of India; three cheque books, one of Union Bank of India, one of Corporation bank and third one of ICICI Bank, a driving license, Adhar Card, two ATM cards, one of ICICI bank and other one of India Post Payment Bank and a mobile phone were recovered.

4. The apprehended persons revealed that they lured the innocent Indians and opened fake bank accounts in their names on the pretext that they shall win lottery and kept ATM cards, cheque books etc of those accounts with them and then they passed on the details of their bank accounts, to certain persons sitting in Pakistan. The accused persons, on the instructions of their Pakistani handlers used to withdraw money from those accounts and deposit them again in the bank accounts of persons as directed by Pakistanis after deducting commission of 5 per cent.

5. The contentions of the applicant are as below:

(i) He has been falsely implicated by A.T.S. Gomti Nagar, District-Lucknow and the prosecution story is fictitious and concocted.

(ii) No incriminating article was recovered from the applicant. The bank passbooks, ATM cards, cheque books, Nokia mobile, Aadhar Card and cash recovered from him are noway connected with the incident in question.

(iii) He was not involved in any conspiracy with the co-accused person.

(iv) There is no independent witness of the incident and his arrest. There is only one previous criminal case registered against him in which he has been discharged by the court concerned in 2016.

(v) The applicant is in jail since last more than three years.

6. The application for bail is vehemently opposed by the State, on the basis of evidence/circumstances and the argument as below:

(i) The offence is quite serious in nature and the *modus operandi* being adopted by the applicant and co-accused in tandem with each other, required a very skillful investigation. And further evidence is under the process of collection and that bail to accused will hamper deep and effective action by the authorities.

(ii) The witness Hemant Kumar has given statement under section 161 Cr.P.C. that a fake papers for winning lottery of Rs. 25,00,000/- was prepared in his name and fabricated cheque of Rs. 30,00,000/- was also prepared for transferring amount in the account of Priti Ruhela, Dheeruddin (the applicant accused) in a number of accounts maintained in other banks.

(iii) The victim produced 81 deposit slips which were used for such transactions.

(iv) Evidence has been collected to demonstrate that fake accounts in the name of Deen Mohammand, Matloob, Dilshaad, Shabnam and Mosina, all residents of Muzaffarnagar and in the name of Vipin Kumar, were opened. The aforesaid witnesses have given evidence that after persuading them to open bank account, instant applicant Dheeruddin obtained their passbook and ATM cards etc. The information was passed on to persons sitting in Pakistan.

(v) The Indian nationals were, in the name of lottery were persuaded to deposit money in those accounts. The instant accused in connivance with co-accused, thereafter transferred the money in the accounts of different persons on the instructions of the mastermind in Pakistan after deducting 5 per cent commission.

(vi) Evidence has been collected that the accused and the co-accused have been in contact with one Junaid, who used to provide the account details and A.T.M. cards etc. and his different phone numbers were saved in fake names like Dada, Dheeraj Kumar Rao, Hrishi Singh, Kuka, Amir Hussain, A.K. Gupta, They have contacted at least 32 persons. Those persons include Arshad @ Momin, Rashid, Bashir, Sameer, Sonu, Allarakha etc. who are Pakistani handlers residing in Pakistan and a few are residing in

Saudi Arab.

(vii) Call details have been collected which show that the applicant and the co-accused have been in continuous contact of persons residing in foreign countries. Audio clips and Whatsapp chats with the persons sitting in Pakistan pointing accusing fingers towards the applicant, have been collected. Oral and documentary evidence has been given by some more witnesses namely Asha Devi, Mohd. Salam Ansari besides victim Hemant Kumar. Details of bank accounts and ATM cards have also been collected by I.O.

7. It is argued that the bail application of co-accused has been rejected and that the instant applicant's case is no different from his case. It is pointed out that though, incriminating articles like 30 ATM cards etc. have been recovered from the co-accused but, as both the persons worked in tandem hatching a conspiracy hence, the case of instant accused cannot be treated differently. Besides the applicant has been involved in two more cases i.e. Case Crime No. 282 of 2015 under section 302 and 201 I.P.C. P.S.- Baghpat, District- Baghpat; Case Crime No. 67 of 1989 under section 395 I.P.C. P.S. Inchauli, District- Muzaffarnagar, for which no explanation has been given by him. The matter is complicated one and still required a skillful investigation and collection of evidence. The period of detention already undergone cannot be a sole ground for grant of bail.

8. Learned A.G.A. has submitted that as the investigation progresses, the provision of Unlawful Activities Prevention Act may be invoked as the matter pertains to national security.

9. I went through the contents of the F.I.R., the oral as well as documentary evidences available on record, the statement given by the witnesses, taking into account all the facts and circumstances of the case, article recovered from the applicant as well as the period of custody, previous criminal history and all the attending facts and circumstances of the case including nature of accusation and evidence collected, I do not find any good ground enough to grant bail to the applicant.

10. Hence, the bail application of the applicant is hereby **rejected**.

11. It is made clear that the observations made in this order are limited for the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case.

Order Date :- 17.11.2023
Sumit Kumar