

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7812 of 2023

Applicant :- Binod Kumar Mishra @ Vinod Kumar Mishra

Opposite Party :- Directorate Of Enforcement, Allahabad Thru. Assistant Director (Alok Pathak) And Another

Counsel for Applicant :- Gaurav Singh, Kamal Swaroop Pandey, Katyayan Mishra

Counsel for Opposite Party :- Rohit Tripathi

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Katyayan Mishra, the learned counsel for the applicant, Sri Rohit Tripathi, the learned counsel for the Directorate of Enforcement and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Complaint Case No.02 of 2018, Sessions Case No.278 of 2023, ECIR No.07/VSI/2012, under Section 3/4 of Prevention of Money Laundering Act, 2002, registered at Police Station Enforcement Directorate, District Lucknow.

3. Initially the C.B.I. had received a complaint from the Regional Manager, Ballia Etawah Gramin Bank, Ballia alleging that the then Branch Manager-Chandra Prakash Singh in connivance with some bank official and private persons caused wrongful loss to the bank by making fraudulent transactions. The C.B.I. has submitted a charge sheet on 30.06.2011 against five persons including the applicant. The Directorate of Enforcement registered an ECIR on 06.01.2012 and complaint has been lodged on 16.09.2017.

4. The applicant's statement under Section 50 has already been recorded, which indicates that the applicant has cooperated with the investigation.

5. The learned counsel for the applicant has drawn attention of this court towards the averments made in the complaint, wherein it is stated that the applicant had made fraudulent withdrawals of Rs.4,80,000/- which were transferred to his account. It is recorded in the complaint itself that the scrutiny of the applicant's bank account revealed that Rs.3,00,000/- were withdrawn by him on 17.04.2009 and Rs.1,80,000/- was withdrawn by him on 19.08.2009 but the Branch Manager of the Bank intimated that credit transfer voucher for

Rs.4,80,000/- credited in the account of the applicant was not available in the records of the bank. It has come to light during investigation that the said amount was withdrawn by the co-accused Chandra Prakash Singh.

6. The learned counsel for the applicant has submitted that there is nothing on record to indicate that the money had been transferred to the applicant fraudulently. He has submitted that it was the amount transferred by his employer M/s Bareilly Furnitures of which the applicant was the proprietor. The co-accused Chandra Prakash Singh who was the then Manager of the Bank has died during pendency of the proceedings and the proceedings against him stands abated.

7. The learned counsel for the respondent-E.D. has filed a counter affidavit and he has submitted that the applicant has been convicted of the scheduled offence and therefore he is not entitled to be granted bail in the present case as his guilt stands established.

8. Replying to the aforesaid objection, the learned counsel for the applicant has submitted that the applicant has been convicted on the basis of his own confession because the applicant was not in position to contest the case due to his poverty. It has also been submitted on behalf of the applicant that the co-accused Santosh Kumar Singh has already been granted bail by this court by means of an order dated 23.11.2023, passed in Criminal Misc. Bail Application No.13829 of 2023.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the only allegation against the applicant is regarding withdrawal of Rs.4,80,000/- made from his bank account on 12.12.2008 and there is nothing on record to indicate that the amount had been transferred to his account fraudulently; that the co-accused Avinash Kumar Rai and Santosh Kumar Singh have already been granted bail by this court; that the applicant has no previous criminal history besides the scheduled offence and he is languishing in jail since 18.05.2023 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 crime.

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

11. Let the **applicant-Binod Kumar Mishra @ Vinod Kumar Mishra** 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 :- 11.12.2023
Ram.