

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11455 of 2023

Applicant :- Pankaj Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Secrett. Lko.

Counsel for Applicant :- Amol Kumar Srivastava, Pawan Kumar, Shivanshu Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Amol Kumar, 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. 9 of 2020, under Sections 420, 419, 120-B IPC & 66C and 66D of I.T. Act, Police Station Cyber Crime, District Lucknow Rural.

3. The aforesaid case has been registered on the basis of an FIR registered on 22.10.2020 alleging a fraudulent withdrawal made from the informant's bank account on 20.10.2020 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 six of which he has already been granted bail. Details of those nine cases have been mentioned in para 11 of the affidavit filed in support of the application.

5. The learned A.G.A has opposed the the bail application, and he 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. He next stated that mobile no. 8709836953 has been issued in the name of the applicant but the learned counsel for the applicant has submitted that this number is also not mentioned in the FIR.

6. The learned A.G.A has further stated that the applicant has been seen in a CCTV footage standing with another accused person, who was making withdrawal from a bank account used in commission of similar offences from other persons, through an ATM.

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. The learned counsel for the applicant has further submitted that co-accused Pankaj Kumar, has already been granted bail by means of an order dated 26.10.2023 passed by this Court in Criminal Misc. Bail Application No.6913 of 2023

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the incident in question occurred on 20.10.2020 whereas the FIR has been lodged on 22.10.2020 and there is no explanation for the delay in lodging an FIR; that prima facie there appears to be no direct evidence in the commission of the offence in question and that co-accused has already been granted bail, coupled with the fact that the applicant is languishing in jail since 01.09.2021 and trial is not yet commenced although a charge sheet was filed way back on 15.03.2022, I am of the view that the applicant is also entitled to be released on bail in the aforesaid crime.

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

12. Let the applicant- **Pankaj Kumar** 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.

(Subhash Vidyarthi,J.)

Order Date :- 20.11.2023

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