

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13170 of 2022

Applicant :- Shivam Tripathi @ Shivam Pandit @ Monu

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

Counsel for Applicant :- Arun Kumar Shukla, Bharat Bhushan Singh, Jitendra Upadhyay, Ram Chandra Dwivedi, Sandeep Kumar Singh

Counsel for Opposite Party :- G.A., Surya Prakash Singh, Syed Nayab Raza, Upendra Pratap Singh

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned counsel for the applicant, learned counsel for first informant and perused the record.

This application has been moved by the applicant with a prayer to enlarge him on bail in Case Crime No.245 of 2022, under Sections 406, 420, 506, 411 I.P.C., Police Station Gomti Nagar Vistar, District- Lucknow.

Vide order dated 31.10.2022, the bail application of the present applicant was rejected by the trial court.

It is argued by the learned counsel for the applicant that the incident is shown to be dated 24.09.2022 while FIR has been lodged on 30.09.2022 with delay of 6 days and this delay has not been explained. The report was not given at the police station concerned rather it was sent to the S.P., Crime Branch, Lucknow. After registering the FIR, the Investigating Officer filed the charge-sheet against the present applicant under Sections 406, 420, 411, 506 IPC.

It is submitted that in the charge-sheet no independent witness has been named. All the witnesses are the family members of the first informant. Recovery of Rs.4,00,000/- and two gold chains is shown from the applicant. This money of Rs. 4,00,000/- was the own money of the applicant, which he had saved from his income as he is a pandit. He used to collect this money with the sister of the first informant. As he was the family priest of the first informant, so off and on he used to stay in the house of the first informant and used to keep his earnings in the shape of cash money and jewellery with the sister of the first informant, thus, the recovered jewellery and money from the applicant was his own. The applicant is languishing in jail

since 08.10.2022. The offence is triable by the court of magistrate, hence, the prayer for bail is made.

The prayer is opposed by the learned counsel for the first informant. It is submitted that when in the CCTV footage the sister of the first informant was seen with the black bag going in a car then the facts came into light that since long back the present applicant was blackmailing the sister of the first informant giving her threats of life of her brother and nephew. As the first informant is a very well to do person the applicant succeeded in extorting a huge amount of money and jewellery gradually from the house of the first informant through the sister of the first informant. With this money he purchased a house, one SUV car and with regard to this offence the first FIR was lodged on 30.09.2022 being Case Crime No.245 of 2022. Later on when the thefts from the residence of first informant situated at Gonda also came into light an FIR being Case Crime No.337 of 2022 dated 14.11.2022, under Section 386, 420, 411/34 and 120B IPC was lodged against the present applicant in Gonda also. Regarding both the FIRs the bail application of the applicant has been rejected. Regarding case registered at Gonda one independent witness Goli has been produced, who has supported the prosecution version, hence, the prayer of bail is opposed.

From the perusal of the record, it is found that as per the FIR when the jewellery and money were off and on found missing from the house of the first informant and in the night of 03.09.2022 again a theft took place in the house of the first informant at Lucknow when he was in his village, then an application was moved to S.P. Crime Branch, Lucknow by the first informant. By inquiry this fact came into light through CCTV Camera footage that the 23 years old sister of the first informant was going along with a bag outside the house and then only the fact came into light that she was being blackmailed and given threat by the present applicant since last one year that if she would not give him money and jewellery then her brother and nephew would be kidnapped and put to death. On being blackmailed and receiving the threats she was paying money and handing over the jewellery from her house to the applicant continuously. Later on when the theft was found in first informant's house situated at Gonda there also the first informant had to lodge named FIR against the applicant. In the present case when the present applicant was arrested by the police Rs.40 lakhs and two chain (gold) were recovered from him and there is confession of the applicant that by hypnotism he took the sister of the first informant in his control and confidence and started extorting money from her. Though, learned counsel for the applicant has filed the statement of the

Branch Accountant Mahindra that he had given the amount to the applicant on loan for purchasing SUV at the excessive interest of 1% than the prevailing rate of interest and it is said that the whole money and jewellery recovered from him is his own.

If we go through the statement of this accountant he has admitted that no source of income was shown by the applicant and it was the reason that the loan was given to him on 1% extra interest than the normal rate of interest. In the CCTV footage the sister of the first informant is seen carrying the bag outside her house, containing rupees and jewellery. The statement of the sister of the first informant is on record that the present applicant was the purohit of the first informant and when he came to know that it is she only taking care of entire money transactions of the house of the first informant he started hypnotizing her and under the effect of hypnotism he started extorting jewellery and money from the house of the first informant through her. A huge amount of money and jewellery is said to have extorted by the applicant from the house of the first informant. The recovered amount of Rs.4,00,000/- and two gold chains from the applicant are claimed to be the rupees and jewellery, which are extracted by him from the sister of the first informant. Though the applicant has claimed all the rupees and jewellery his own which were kept by him in the custody of the sister of the first informant and was being returned to the applicant on his demand. The story cooked up by the applicant prima facie does not inspire the confidence of the Court.

After perusing the record in the light of submissions advanced at the bar, taking overall view of the facts and circumstances of the case, without commenting on the merit of the case, I do not find it a fit case for bail.

The bail application is, hereby, **rejected**.

Order Date :- 29.11.2023

Radhika