

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12204 of 2023

Applicant :- Mo. Vaseem

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

Counsel for Applicant :- Faisal Ahmad Khan, Mohd. Qasim Khan

Counsel for Opposite Party :- G.A., Ashish David Rao, Mohammad Kausar Jah

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Faisal Ahmad Khan, the learned counsel for the applicant, Sri Anurag Verma, the learned AGA-I for the State, Sri Ashish David Rao, the learned counsel for the informant and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in an FIR bearing Case Crime No. 292 of 2023, under Sections 352, 406, 419, 420, 467, 468, 471, 504, 506 IPC and Section 66 Information Technology Act, 2000, Police Station Harpalpur, District Hardoi.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 08.07.2023, in furtherance of an application under Section 156(3) Cr.P.C. filed on 20.06.2023, against the applicant, the then Branch Manager of State Bank of India and the then cashier of the bank, alleging that the informant got retired from health department in the year 2014; claiming himself to be an agent of LIC, the applicant obtained some documents and mobile number of the informant in the year 2019 and thereafter he took the informant to the bank on the pretext of recording her correct mobile number. After sometime, the informant handed over two fix deposit receipts issued by LUCCL, in place of policies of LIC. The informant went to the bank for getting the entries in her passbook updated but the co-accused persons avoided the same for several dates and when entries were made in the month of September, 2022, the informant came to know that the applicant's mobile number was recorded in her account and Rs. 25,55,770/- were transferred from her account through UPI.

4. In the affidavit filed in support of the application it has been stated that the applicant is nephew of the informant, the applicant had herself made him her nominee in her bank

account and she had herself got his mobile number registered in the bank.

5. The learned counsel for the applicant has submitted that the transactions were made under authority given by the informant, who is an issue-less lady.

6. The learned AGA has vehemently oppose the bail application and on the basis of instructions, he has submitted that the allegation of transfer of Rs. 25 lakh and odd through UPI is supported by the material collected during investigation and a cheque of Rs. 9.5 issued deposited in the name of the applicant, has been recovered through his possession, which cheque could not be paid by the bank because of insufficiency of funds and two mobile phone of the applicant have been recovered and sent for FSL for recovery of data.

7. The learned counsel for the informant has also vehemently opposed the bail application and he has produced a copy of the bank account statement of the informant indicating that the applicant made several withdrawals upto the maximum limit of UPI transactions and the amount were withdrawn between the period 2018 to 2022.

8. The learned counsel for the informant has further submitted that the applicant is accused in another FIR bearing Case Crime No. 163 of 2021, under Section 304-A IPC. The learned counsel for the applicant states the Investigating Officer has submitted a final report. After protest the matter was re-investigated and again a final report has been submitted. A second protest petition has been filed by the informant, which is still pending.

9. The learned AGA-I has stated on the basis of instructions that a charge sheet has been submitted against the applicant only on 24.09.2023 and complicity of the other co-accused persons could not be established during investigation.

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

11. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the informant had worked in health department and has retired in the year 2014; the FDRs in question, in place of LIC policies, were issued in the year 2018, the FIR alleges issuance of FDRs in place of LIC policies in the year 2019; the transactions through UPI were also made over a long period of time starting from the year 2018 and extending up to 2022, the FIR in question has been lodged on the basis of an application under Section 156(3)

Cr.P.C. filed on 20.06.2023; the allegations levelled against the co-accused persons could not be established during investigation and the charge sheet has already been submitted against the applicant alone, I am of the view that the applicant is entitled to be released on bail in the aforesaid case.

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

13. Let the applicant-***Mo. Vaseem*** be released on bail in Case Crime No. 292 of 2023, under Sections 352, 406, 419, 420, 467, 468, 471, 504, 506 IPC and Section 66 Information Technology Act, 2000, Police Station Harpalpur, District Hardoi 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 :- 13.10.2023

Pradeep/-