

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12445 of 2023

Applicant :- Dilip Kumar Gupta

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

Counsel for Applicant :- Siddhartha Sinha, Arun Sinha, Mohammad Zeeshan Lari, Pranshu Agrawal

Counsel for Opposite Party :- G.A., Anuj Taandon, Anuj Taandon

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Pranshu Agarwal and Sri Siddhartha Sinha, the learned counsel for the applicant, Sri Rishikesh Verma, learned A.G.A. for the State and Sri Anuj Tandon, Advocate who has put in appearance on behalf of the informant and filed his vakalatnama, which is taken on record.
2. The instant application has been filed seeking release of the applicant on bail in Complaint Case No.92 of 2018, under Sections 406, 417, 420, 467, 468, 471, 120-B, 379, 323, 504, 506 I.P.C., registered at Police Station Mahanagar, District Lucknow.
3. The aforesaid case has been registered on the basis of a complaint filed on 12.01.2018 against 8 named accused persons including the applicant and four unnamed persons stating that the applicant had joined the complainant's company Sita Financial Consultant as an employee in the year 1996. He worked diligently and he was given promotion and increments in salary from time to time. The applicant opened a trading account and demat account in company and started dealing in sale and purchase of shares and thereafter he opened trading and demat account of her wife and other relatives also. Upon a

special audit of the company's account conducted in January, 2016, it came to light that the applicant has made wrong entries of share transaction in several clients account of the company. He traded from the accounts of a client Vijay Jain without his knowledge causing a loss of Rs.19,55,926.89 which the company had to make good. The complaint alleges theft of company's shares and embezzlement of Rs.3,55,117.50 also. The complaint further alleges that on 13.11.2017 the applicant and some other persons had misbehaved, abused and beaten up the complainant. On 09.12.2017, the complainant had sent a demand notice for refund of the company's amount but the amount was not refunded and thereafter the criminal complaint has been filed.

4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.

5. A supplementary affidavit has been filed on behalf of the applicant stating that the informant has a criminal history of at least 25 cases.

6. Learned counsel for the applicant has submitted that the proceedings have been quashed in respect of four co-accused persons namely Chandra Kumar Misra, Dilip Kumar Gupta, Manorama Mishra and Rinki Gupta.

7. The learned counsel for the complainant has vehemently opposed the application and he has submitted that the applicant had filed an application under Section 482 Cr.P.C. bearing No.4402 of 2019, which has been rejected by means of an order dated 08.08.2022, passed by a coordinate bench of this court. An application under Section 482 Cr.P.C. bearing No.4492 of 2019 filed by another co-accused Dilip Kumar Gupta has also

been dismissed by means of an order dated 08.08.2022.

8. Having considered the aforesaid facts and circumstances of the case, what prima facie appears from the perusal of material available on record is that the applicant has worked as an employee of the complainant's company since 19996. The complainant filed on 12.01.2018 alleges commission of illegalities in dealing with the accounts of company's clients, which came to light during a special audit conducted in January, 2016. The complaint does not give particulars of the clients or of the accounts and the learned counsel for the applicant has submitted that no statement of those account holders have been recorded under Sections 200 or 202 Cr.P.C. Although, the complaint alleges assault by the applicant on 13.11.2017, there is no mention thereof in the letter dated 09.12.2017 demanding refund of the company's money. Prima facie, it appears that the present complaint has been filed in furtherance of the letter dated 09.12.2017 demanding refund of the money for which purpose no civil proceedings have been initiated by the complainant. Keeping in view the aforesaid facts coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since 22.08.2023 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.

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

10. Let the **applicant- Dilip Kumar Gupta** be released on bail in Complaint Case No.92 of 2018, under Sections 406, 417, 420, 467, 468, 471, 120-B, 379, 323, 504, 506 I.P.C., registered at Police Station Mahanagar, District Lucknow 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 :- 19.10.2023
Ram.