

Court No. - 88

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6732 of 2025

Applicant :- Sangeet Gupta

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Kanchan Sharma, Prashant Vyas, Sr. Advocate

Counsel for Opposite Party :- Dheeraj Singh (Bohra), G.A.

Hon'ble Ram Manohar Narayan Mishra, J.

1. Heard Sri G.S. Chaturvedi, learned Senior Advocate assisted by Sri Prashant Vyas, learned counsel for the applicant, learned A.G.A for the State of U.P., Sri Anil Tiwari, learned Senior Advocate assisted by Sri Dheeraj Singh Bohra, learned counsel for the informant and perused the record.

2. The present bail application has been filed on behalf of the applicant in Case Crime/FIR No.434 of 2024, under Sections 61 (2), 3 (5), 303 (2), 317 (2), 317 (4), 336 (3), 340 (2), 338 of the Bharatiya Nyaya Sanhita, 2023 and Section 66, 66 B, 66C, 43 and 84 B of the Information Technology Act, Police Station-Ecotech-III, District Gautam Budh Nagar, with the prayer to enlarge her on bail.

3. The main allegation against the applicant is that in Case Crime no. 434/2024 applicant-accused has made unauthorized access of E-mail Id Deepak@modacocktail.com and also accessed to the copies of documents, which are confidential to the informant. The allegation states that the informant has its independent domain id, namely, Deepak@moda-cocktail.com and it was revealed that the private and confidential documents were annexed by the applicant-accused before the Arbitration Authority. The communication of the informant with the GST official for GST fraud committed by the Sangeet Gupta and Sharad Gupta unauthorizedly in the name of the Moda Cocktail was also accessed by the accused. The goods worth crore of rupees were stored unauthorizedly in private warehouse, which did not form part of the accounts of partnership. The informant alleges that out of books and

accounting goods worth crores of rupees were unauthorisedly stored at an unregistered and illegal warehouse engaged by Sharad Gupta and Sangeeta Gupta at Kulsera Area under the jurisdiction of PS Ecotech-III. They have entered into several suspected and illegal transaction, which was detrimental to the business and partnership of the Moda Cocktail business. The accused used to sell products of the partnership company modacocktail illegally by cheating the informant and also was making illegal money by evading both GST and Income-tax. The informant further alleges that by forging the E-mail ID, documents procured through illegal access to the email were tampered with and the said hard copy of the email by whitening and deleting they printed E-mail ID particularly, the Mail ID of 08.08.2024 were misused. The allegation further states that this is not isolated incident, the applicant and his brother Sharad Gupta have forged the signature of informant and his father for the purpose of allotment of land in Yamuna Expressway Industrial Development Authority which has been confirmed by the FSL report of Ghaziabad, and FIR has been lodged against their act. The informant further states that the applicant has made an illegal access of his mail id and in conspiracy with the domain service provider has made an access the domain id of Deepak@modacocktail.com. The informant has accessed to the confidential documents which were personal to him and by doing so he has committed theft of the documents and by impersonating the signature before the Yamuna Expressway Industrial Development Authority, he has committed fraud upon them. He is an habitual offender and through illegal means has privately sold the products and goods of the partnership firm by hiring the private ware house which has caused huge wrongful loss to the informant.

4. Sri G.S. Chaturvedi, learned Senior Advocate appearing on behalf of the applicant has submitted that main allegations against the applicant are related to the provisions of Information Technology Act, which was punishment less than seven years. The accused, Sarad Gupta, who is real brother of the applicant, has been granted interim relief by this Court, vide order dated 16.01.2025 passed in Criminal Misc. Writ Petition No.537 of 2025 (Sharad Gupta vs. State of U.P. and 3 others). Another co-accused Abhinav Gupta a relative of the applicant has also been granted interim stay on arrest by this Court vide order dated 14.02.2025. He next

submitted that seven First Information Reports were lodged against the applicant and his brother at the instance of the informant including present one due to partnership dispute between the parties and in every FIRs interim orders were granted in favour of the applicant except present one. Even a case was registered at Police Station Thana, State of Maharashtra, vide Case Crime No.1462 of 2024, under Sections 316 , 318 and 61 of the BNS, in which, FIR was quashed by Bombay High Court in Criminal Application No.15 and 16 of 2025, vide order dated 02.05.2025. In this FIR, applicant and his brother, Satish Gupta and family members are implicated as an accused. The informant and accused persons are family members, they were running a business, which named as M/s Moda Cocktail which was initially done whose sole proprietorship vested in Ms. Ritu Gupta. The firm was engaged in export of garments and hosiery goods. The said business was shifted from Delhi to Noida on 06.06.2002, the sole proprietorship was converted into partnership firm on 22.06.2001, in which, Ritu Gupta, her son, Deepak Gupta (present informant), Sharad Gupta, Sangeet Gupta and Satish Gupta were made partners through supplementary deed dated 01.01.2017 and 02.12.2019. The father of the informant, namely, Rajendra Gupta was also made partner, who subsequently inherited the share of his wife, Ritu Gupta after her death in 2019. The majority of the partnership shares were with Sarad and Sangeet Gupta (present applicant) and rest of the shares were with the informant, Deepak Gupta and his father. The memorandum of family settlement on 26.01.2023 stipulated that partners, namely, Rejendra Gupta and Deepak Gupta would retire for which, he compensated with 17 crore rupees and to that end 8.5 crore rupees was paid to Rajendra Gupta on 27.01.2023 and this fact is apparent from Arbitral award. . However, dispute arose that estimation of Rs.17 crores was undervalued and all the joint family property was not comprised therein. In order to resolve the dispute, applicant along with his brother, Sarad Gupta approached Hon'ble High Court to appoint Arbitrator, under Section 9 read with Section 17 of the Arbitration Act to resolve the issue. The arbitration was conducted before learned Arbitration Tribunal comprising Hon'ble Justice Rajiv Sahai (Sole Arbitrator) and arbitration proceedings was concluded on 25.04.2025 with issuance of arbitral award. In the proceedings before the arbitrator, applicant and his brother were claimants and informant, his father and Canara Bank were respondents.

5. Learned counsel for the applicant has submitted that applicant was arrested on 22.12.2024 by the police and false recovery was shown from the possession of the applicant. Nothing incriminating has been recovered from the possession of applicant. The informant has wrongly alleged that during arbitration proceedings, applicant and his brother, who were claimants, filed certain documents, which are private and confidential. In fact, no such private and confidential documents were filed by the applicant or his brother. He also submitted that main allegations made against the applicant are with regard to charges under Section I.T. Act, which may be summarized hereinbelow:

(a) The accused persons had unauthorizedly hacked the E-mail Id of the informant. (b) Had automatically bucked themselves on such E-mail in conspiracy with the domain service provider of the domain ID @modacoktail.com. (c) The accused persons have unauthorizedly given such documents by the GST officer in question.

6. The informant has prayed that any of the above possibilities requires an investigation as commission of serious offences are made out. Thus, informant is not certain as to whether the documents were hacked or GST official has given them access.

7. Learned counsel for the applicant has also submitted that in the arbitration proceedings, allegation is that there are certain letters and communications attached, which were sent by the informant to the CEO of 'YEIDA' and other senior Government Officials. Such commercial letters were shared by informant through E-mail with Government officials and from his end. No such documents were shared with accused persons. Whatever the documents had been filed before the sole arbitrator in the arbitration proceedings had never been challenged or objected by the informant and his father. However, the documents filed in the arbitration proceedings are genuine documents and the informant had not taken any plea before the Arbitrator stating that such documents are illegal documents. The allegation of hacking such electronic documents, accessing and printing it out by accused persons come under the ambit of I.T. Act and BNS, is false. In fact, applicant and his brother had not committed any offence as alleged in the FIR. The informant had made false allegation against the applicant and his brother that piece of paper, in which, password for his e-mail account was written

by him was missing and was stolen by the applicant and his brother. In fact applicant and his brother were not allowed by the informant and his father to enter into the factory premises from February, 2023, despite being the partners of 85 % share. The informant had occupied that factory.

8. Learned counsel for the applicant has submitted that the FSL report filed in respect of a separate FIR established that signatures of the informant and his father were forged and does not match with the original signature, is false. The FSL report is not an authentic document and it is a managed report. The applicant neither committed any fraud with the informant and his family members nor has prepared any false documents or used any forged paper. The some blank letterhead of higher officials and in the office of Chief Minister of Uttar Pradesh, which was allegedly found in the laptop of the applicant when it was opened in the presence of expert is not sufficient to infer that any forgery of documents has been committed by the applicant. Even signature of the informant has shown in printout of screenshot of the laptop has not been used to prepare any forged documents. He lastly submitted that informant was provided domain Id by the partnership firm and access to the mail Id deepak@modacocktail.com, which was allotted to the informant by the firm for official communication only. The said mail Id had been used and possessed by the informant in capacity of the partner of the firm M/s Moda Cocktail. The applicant was an administrator to the said E-mail domain, which has legally full access of all incoming and outgoing E-mails of the firm, which was related to the official matter. The present case relates to dispute of civil in nature, but the informant has given it a criminal flavour. The allegation that the applicant and his brother hatched the conspiracy, forged several documents and submitted them before statutory bodies to cause undue financial loss to the informant and his family, is absolutely wrong. In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

9. Per contra, Sri Anil Tiwari, learned Senior Advocate appearing for the informant has submitted that present case is not a case of partnership dispute between the parties. The investigation in the case has been completed and charge-sheet has been filed against the applicant. The trial Court had taken cognizance and accused-applicant has been

summoned from custody. However, the investigation in the present case is still pending in respect of co-accused, Sharad Gupta, who was granted interim protection from arrest by this Court, has absconded and NBW has been issued against him. The co-accused and other relatives of the accused-applicant have not cooperated in the investigation. In such circumstances applicant's propensity to disrupt the investigation, tamper with evidence, influence the witnesses, and evade investigation and judicial proceedings cannot be ruled out. The FSL report received and filed with in a chargesheet against the accused arising out a separate FIR conclusively establish that the signatures of the informant and his father were forged and did not match the original. The applicant and his brother interfered with the investigation in the present case. The applicant's brother, after having been denied the relief of transfer of the investigation of the present case by the Hon'ble Supreme Court as well as this Hon'ble Court, suppressed the judicial orders and got the investigation transferred from Police Station Ecotech-III to District Bulandshahar by misleading the Director General of Police, U.P. This Hon'ble Court had taken note of this illegal transfer order in Criminal Misc. Writ Petition No.10826 of 2025 (Deepak Gupta vs. State of U.P. and Another), vide order dated 27.05.2025. The copy of mail, addressed by the accused-applicant to Director General of Police, U.P. for transferring the investigation and copy of transfer order passed by Director General of Police, U.P. are directed to be placed before the Court for appropriate consideration on next date i.e 29.05.2025.

10. Learned counsel for the informant has submitted that accused persons have also committed offences under the I.T. Act by stealing private documents of the informant and used such stolen documents to their benefits. The documents were either stolen by the accused after hacking the email Id of the informant or obtained them through illegal inducement. These documents were available on the E-mail Id of the informant and addressed only to certain public and government officials. Despite filing of several FIRs against the applicant, he continued to access confidential e-mails of the informant. This is wrong to say that applicant and co-accused, Sharad Gupta had arranged for domain Id of informant being one of the partners, whereas informant was provided his own independent domain e-mail Id by service provider to the firm, which was used by the informant for

various purposes and used it from his mobile phone, laptop and other devices. The accused had filed some private and confidential documents of the informant, which is annexed as Annexure-II of the application before sole arbitrator. The list of the documents with the extracts are filed as Annexure-52 of the bail application. In the recent past, the GST Anti Evasion Department had initiated enquiry against the accused persons with respect to huge GST fraud committed by them in the name of MODA Cocktail. The accused had stored out of books of goods of firm worth crores of rupees at an unregistered and illegal warehouse at Kulesra engaged by the accused and his associates. He next submitted that a sensitive document in relation to the ongoing investigation in respect of said GST evasion case was shared by the informant from his email Id to an Anti-evasion, GST officer on his email Id on 18.10.2024 in response to summons sent by the officer in-charge of GST Anti Evasion Department. This e-mail was sent as representation of the informant to give his version in connection with an investigation in the illegal activities undertaken by the accused persons being the partners of the firm. This email was however accessed illegally by the accused who could not have had access to the email Id or the documents, which were personal to the informant and no other persons was marked to this email. The accused-applicant had compromised the email or hacked into informant's email account when the informant had sent an email to one Sri P.K. Srivastava (Assistant Commissioner, Anti Evasion CGST Commissionerate, Gautam Budh Nagar) on 08.08.2024 in relation to the said GST evasion investigation from his email Id. However, this email had also reached the accused persons and they attached it along with their application under Section 17 of the Arbitration Act after deleting the date of print out. This email was neither shared by the informant nor used it in any legal proceedings, therefore, the documents available with them are obtained after getting unauthorized access to the email Id of the informant. The accused had also accessed the letter sent by the informant from his email Id to the CEO of 'YEIDA' and other Senior Government Officials and these letters were also annexed by the accused in his application under Section 17 of the Arbitration & Conciliation Act. Thus, the accused committed the offence under I.T. Act as well as other cognizable offences under the BNS. The charge-sheet has been filed in all the cases lodged against the accused

persons.

11. Learned counsel for the informant has further submitted that applicant was arrested on 22.12.2024 in pursuance of the present FIR and after his arrest, laptop, mobile phone, pen drive, internet dongle and other documents directly relevant to the case were seized from his possession. On 01.01.2025 serious incriminating documents such as blank letterhead of the Hon'ble Chief Minister of U.P., blank letterhead of 'YEIDA', signed letterhead of Smt. Smita Singh, 'YEIDA' and transaction documents with numerous individuals, digital documents in relation to bribery of senior government officials, photocopies of Aadhar Card, Pan card of the informant and his father, paper containing practice signatures of the informant and his father were retrieved from the laptop of the applicant in presence of learned Magistrate and on the direction of the Magistrate concerned Section 338 BNS was also added. Due to filing of stolen documents by the applicant, which are private to informant by hacking his email Id in arbitration application resulted in loss of the informant in the arbitration proceedings. The applicant and his brother adopted systematic use of unethical and illegal practice of digital theft of data by making illegal entry into the system of the informant and caused him wrongful loss. There is no plausible explanation as to how the applicant and his brother have come in possession of those documents. He lastly submitted that Mr. Pradeep Sharma of Excel Technology (Domain Provider) has stated in his statement under Section 161 Cr.P.C. that the applicant and co-accused persons had approached him to seek his help in illegal access of e-mail Id of the informant but he refused their request.

12. There is some force in submissions of the learned counsel for the applicant that in FIR itself, the informant has stated that the applicant and co-accused had unauthorized access to hack his e-mail Id. The main charges in the present FIR relate to offences under I.T. Act as six separate FIRs have already been lodged at the instance of present informant against the accused persons, who were cousin and engaged in partnership business prior to serious dispute occurred between them due to distribution of assets of partnership when the informant and his father were set to exit from partnership pursuant to memorandum of understanding reached between the partners.

13. So far as charge against the applicant that he gained unauthorized access to confidential e-mail Id of the informant and visited certain confidential documents preserved therein, which amounts to theft of digital and electronic record are concerned, the offences come within the purview of I.T. Act and charges levelled against the applicant under this act are punishable with three years imprisonment and fine. The informant has alleged that accused-applicant hacked certain confidential documents of him, which was preserved in e-mail and filed the same under Section 17 of Arbitration Act before Arbitration Tribunal. It is not alleged that these documents were forged, although these were procured illegal manner. The separate FIRs vide Case Crime Nos. 330 of 2023 and 331 of 2023 were lodged by the informant with allegation that applicant and co-accused had forged signature of the informant and his father in the affidavit filed before 'YEIDA' and got allotment of huge land in the name of partnership firm from 'YEIDA' behind the back of the informant. The some interim orders were passed in these cases by this Court on petition of the applicant and co-accused. The allegations will be dealt with separately by the Court concerned when the matter will be taken up for the purposes of disposal of bail application in those cases or at the stage of trial as the case may be. Some objectionable documents were retrieved as stated above from the laptop of the applicant when the same was opened before the Magistrate. No evidence appears to be collected to the effect that these alleged forged documents were ever used by the accused-applicant. In separate FIRs also in respect of alleged theft committed by the applicant and co-accused by keeping separate warehouse on behalf of the firm, interim protection was granted by this Court at the stage of investigation and charge-sheet has been filed therein, the matter will be taken up by the Court concerned, at the stage of bail, trial as a case may be in accordance with law. Although the present FIR does not directly related to partnership dispute, but it is admitted fact that there is long standing partnership dispute between the informant and accused persons, wherein accused persons are alleged to have adopted illegal practices to the detriment of the informant. The allegations contains in separate and earlier FIRs with regard to different criminal charges are not liable to be considered at this stage and those allegations will be taken care of at appropriate stage by the Court concerned, when the case concerned comes before it.

14. Considering the rival submissions of learned counsel for the parties, perused of record, taken into consideration the totality and circumstances of the case, larger mandate of law contained in Article 21 of the Constitution and dictum of Hon'ble Supreme Court in **Data Ram vs. State of U.P.; 2018 (3) SCC 22** and without expressing any opinion on merits of the case, I am of the view that the applicant is entitled to be released on bail.

15. Let the applicant-**Sangeet Gupta**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicant shall visit the police station concerned in first week of every month during pendency of trial and in

case of any default on his part, the matter be reported by SHO concerned to Court concerned for necessary action. The Court concerned, however, will be at liberty to waive the attendance of applicant at police station in future, if he finds that he is cooperating with the proceedings of the case.

16. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 27.5.2025

Amit