

Court No. - 86

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48663 of 2022

Applicant :- Akash Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Diwan Saifullah Khan, Abhishek Ankur Chaurasia

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Kumar Singh, J.

Heard learned counsel for the applicant and the learned A.G.A. appearing for the State.

The aforesaid case has been registered on the basis of an FIR lodged on 11.04.2022 by the Station House Officer alleging that on 26.02.2022 at 15:20 hours, an e-mail was sent from ID-"honblemrjusticemaheshtripathi@gmail.com" to the Superintendent of Police, Chandauli and Additional Superintendent of Police, Chandauli by some unknown person tarnishing the image of the office of a Judge of the Hon'ble High Court of Judicature at Allahabad.

During investigation, the mail was traced to a sim card which has been issued in the name of one Saif. Saif stated that the aforesaid SIM was handed over by him to one Zafar Khan. Zafar in turn stated that the mobile and the SIM had been used temporarily by the applicant.

The e-mail that was sent through the aforesaid e-mail ID has also been annexed with the affidavit. The e-mail which has purportedly been sent by an Hon'ble Judge of this Court addressed to the Senior Superintendent of Police complains that while the Hon'ble Judge was traveling to Delhi and he was passing through Chandauli, another car mentioned in the e-mail overtook the Judge's car and used abusive language with the security personnel and the man identified himself as Ashutosh Kumar Singh. The e-mail requested the police authorities to take action against Ashutosh Kumar Singh.

It has been averred in the affidavit filed in support of the bail application that the applicant is an innocent person, he has been falsely implicated in the case, he is having no previous criminal history and he is in jail since 20.09.2022. It has also been stated in the affidavit that there is no possibility of the applicant tampering with any evidence and in such circumstances, the applicant is entitled for bail. It is also stated in the affidavit that the applicant

will not misuse the liberty of bail and he will fully cooperate in the investigation.

A supplementary affidavit has been filed on behalf of the applicant discloses his involvement in four other cases, in three of which he has already been granted bail. Case Crime No. 62 of 2022, under Sections 419, 420 IPC and 66 of Information Technology Act and has been lodged along with the present case and the bail application in that case is pending.

The learned counsel for the applicant has submitted that the allegations levelled in the FIR do not make out commission of an offence under Sections 419, 420 IPC at the most, it may make out commission of an offence under Section 66-C of the Information Technology Act, which carries a maximum punishment of imprisonment for upto three years, which is a bailable offence.

Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail, but he could not dispute the aforesaid aspects of the matter.

Having heard the submissions of learned counsel of both sides, nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment, and larger mandate of the Article 21 of the Constitution of India, the dictum of Apex Court in the case of **Dataram Singh v. State of U.P. and another, reported in (2018) 2 SCC 22** and without expressing any opinion on the merit of the case, I find it to be a case of bail.

Let the applicant, Akash Singh, involved in Case Crime No. 62 of 2022, under Sections 419, 420 I.P.C. and Section 66-C I.T. Act, 2000, Police Station Chandauli, District Chandauli be released on bail on his furnishing a personal bond with two heavy sureties each in the like amount, one of which shall be of his family member, to the satisfaction of the court concerned with the following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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 her counsel. In case of his absence, without sufficient cause, the trial court may proceed against her under Section 229-A of the Indian Penal Code.

(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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

In case of breach of any of the above conditions, the trial court will be at liberty to cancel the bail.

The trial court is directed to expedite the trial of the present case and conclude the same expeditiously preferably within a period of six months from the date of production of a certified copy of this order, if there is no legal impediment.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 13.3.2023

Kumar Manish.