

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23029 of 2022

Applicant :- Nivas Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- P.K. Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1.Heard Sri P.K. Singh, the learned counsel for the applicant, Sri Jitendra Kumar Jaiswal, the learned A.G.A. for the State and perused the record.

2.The present bail application has been filed by the applicant with the prayer to enlarge him on bail in Case Crime No. 33 of 2022, under Sections 379, 420, 411 I.P.C. and Section 66-C of the Information Technology Act, P.S. Gyanpur, District Bhadohi.

3.The aforesaid case has been registered on the basis of an F.I.R. lodged against three unknown persons alleging that when the informant had gone to an A.T.M. to withdraw some amount, three persons present there had duped her.

4.In the supplementary affidavit filed in support of the bail application it has been stated that the applicant has been implicated in Case Crime No. 56 of 2022, under Sections 420, 467, 468 I.P.C., P.S. Gyanpur, District Bhadohi in which he has already been released on bail vide order dated 06-06-2022 passed in Criminal Misc. Bail Application No. 23287 of 2022.

5.The learned counsel for the applicant has submitted that the co-accused persons Rakesh Kumar and Chandan Kumar have already been granted bail by this Court vide orders dated 13-07-2022 and 25-07-2022 passed in Criminal Misc. Bail Application Nos. 23774 of 2022 and 23506 respectively.

6.It is further submitted by the learned counsel for the applicant that the case set up against the applicant is similar to that set up against the other co-accused persons, who have already been released on bail, therefore, the applicant is also entitled to be released on bail on the ground of parity.

7.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 16.04.2022. 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.

8.Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail but he could not dispute that the case set up against the applicant is similar to that set up against the other co-accused persons, who have already been released on bail.

9.Keeping in view the aforesaid fact, this Court is satisfied that the applicant has made out a case for being enlarged on bail pending conclusion of the trial. The bail application is accordingly allowed.

10.Let the applicant - **Nivas Kumar** be released on bail in Case Crime No. 33 of 2022, under Sections 379, 420, 411 I.P.C. and Section 66-C of the Information Technology Act, P.S. Gyanpur, District Bhadohi on his furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

11.In case of breach of any of the above condition, the prosecution shall be at liberty to move an application bail before this Court seeking cancellation of bail.

Order Date :- 3.8.2022

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