

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47038 of 2022

Applicant :- Deepak Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Rakesh Kumar Srivastava, the learned counsel for the applicants, Sri Dinesh Kumar Srivastava, the learned Additional Government Advocate and perused the record.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 415 of 2022, under Section 420 IPC, Section 3/10 of the U.P. Public Examinations (Prevention of Unfair Means) Act, 1998, Section 66D of the Information Technology Act, Police Station Noida Sector-58, District Gautam Budh Nagar during pendency of the trial in the Court below.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged by Ashish Sirohi, Operation Executive of TCS Company stating the aforesaid Company had taken the responsibility to conduct the examination for recruitment to Group D posts in Indian Railways. During examination, the activities of Invigilator Parvesh Bansal, who is a co-accused, were found to be suspicious and upon his search a blue-tooth device alongwith SIM card and a pair of wireless blue-tooth ear buds were found from him.
4. The F.I.R. further states that from the accused No. 1 to 5 blue tooth devices with SIM cards, wireless blue tooth ear buds were recovered and similarly from accused Nos. 6 to 8 also similar recoveries were made.
5. It is alleged that in their custodial statements, all the accused persons have confessed that the aforesaid devices were being used by them for getting unfair advantage in the aforesaid examination.
6. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has been falsely implicated in the present case and that he has no criminal history.

7. The applicant is languishing in jail since 14.09.2022.

8. Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail.

9. Having regard to the aforesaid facts and circumstances of the case and keeping in view the fact that there is no allegation of impersonation against any of the accused persons, prima facie, it appears that Section 66-D of the Information Technology Act would not be made out; that the offence under the U.P. Public Examinations (Prevention of Unfair Means) Act, 1998, carries maximum punishment of imprisonment for three months whereas the applicant is languishing in jail since 14.09.2022 and that he has no criminal history, I am of the view that the applicant is entitled to be released on bail.

10. In light of the preceding discussion and without making any observation on the merits of the case, the instant bail application is allowed.

11. Let the applicant **Deepak Kumar** be released on bail in in Case Crime No. 415 of 2022, under Section 420 IPC, Section 3/10 of the U.P. Public Examinations (Prevention of Unfair Means) Act, 1998, Section 66D of the Information Technology Act, Police Station Noida Sector-58, District Gautam Budh Nagar on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the 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.

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

Order Date :- 14.12.2022

Jaswant