

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34275 of 2022

Applicant :- Niwas 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. 104 of 2022, under Section 420 I.P.C. and Section 67-C of the Information Technology Act, P.S. Khorabar, District Gorakhrpur.

3.The aforesaid case has been registered on the basis of an F.I.R. lodged against unknown persons alleging that the informant had been duped for Rs. 2,46,047.20 through his ATM Card.

4. During investigation, the police got a copy of F.I.R. of Case Crime Nos. 56 of 2022 and 33 of 2022 and on the basis of his involvement in the aforesaid cases, the applicant has been implicated in the present case also.

5. It is further submitted by the learned counsel for the applicant that the applicant has already been released on bail in Case Crime Nos. 56 of 2022 and 33 of 2022 by means of an orders dated 06-06-2022 and 03-08-2022 passed in Criminal Misc. Bail Application Nos. 22891 of 2022 and 23029 of 2022 respectively.

5.The learned counsel for the applicant has submitted that the co-accused Chandan Kumar has already been granted bail by this Court vide order dated 11-08-2022 passed in Criminal Misc. Bail Application No. 34865 of 2022.

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 person, who has 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 22-06-2022. 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 person, who has already been released on bail.

9. Having regards to the aforesaid facts and submissions and particularly the fact that the applicant has already been released on bail in Case Crime Nos. 56 of 2022 and 33 of 2022, on the basis of which the applicant has been involved in the present case and that the co-accused person has granted bail, by this Court, I am of the view 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 - **Niwas Kumar** be released on bail in Case Crime No. 104 of 2022, under Sections 420 I.P.C. and Section 67-C of the Information Technology Act, P.S. Khorabar, District Gorakhpur 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 :- 16.8.2022

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