

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53523 of 2022

Applicant :- Mohammad Waseem

Opposite Party :- State of U.P.

Counsel for Applicant :- Zaid Arshad

Counsel for Opposite Party :- G.A.,Rajesh Kumar Pandey

Hon'ble Ajay Bhanot,J.

Counter affidavit filed by the applicant is taken in the record.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No.1137 of 2021 at Police Station-Naubasta, Kanpur Nagar under Section 420 IPC and Section 66D of the Information Technology Act. The applicant is in jail since 06.10.2022.

The bail application of the applicant was rejected by the learned trial court on 01.11.2022.

The following arguments made by Shri Zaid Arshad, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Rajesh Kumar Pandey, learned counsel for the informant and Shri Rishi Chaddha, learned A.G.A. from the record, entitle the applicant for grant of bail:

(1). The applicant was not named in the F.I.R.

(2). The applicant has been nominated on the

footing of a confessional statement made by the co-accused four months after the incident before the police authorities. The said statement insofar as it implicates the applicant is not admissible.

(3). The applicant did not exchange or use the ATM card of the victim.

(4). The applicant is not a beneficiary of any illicit transaction.

(5). The offending ATM card was not recovered from the applicant.

(6). Prosecution evidence does not connect the applicant with the offence.

(7). Explaining the criminal history of the applicant it is contended that the applicant belongs to poor economic strata of the society and is a convenient scapegoat for the police authorities. The applicant has been falsely nominated in the said cases only to burnish the credentials of the police authorities. The said cases have no bearing on the instant bail application.

(8). The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the

evidence or reoffending.

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

Let the applicant-Mohammad Waseem be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

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

Order Date :- 12.1.2023
Ashish Tripathi