

HIGH COURT OF UTTARAKHAND AT NAINITAL

Second Bail Application No.169 of 2022

Devesh Nandi

...Applicant

Versus

State of Uttarakhand

...Respondent

Present:-

Mr. S.R.S. Gill, Advocate for the applicant.

Mr. Lalit Miglani, A.G.A. for the State.

Hon'ble Ravindra Maithani, J. (Oral)

Applicant Devesh Nandi is in judicial custody, in FIR No. 25 of 2021, under Section 420, 467, 468, 471, 120B IPC and Sections 66 (C) and 66 (D) of the Information Technology Act, 2000, Police Station Cyber Crime, District Dehradun. He has sought his release on bail.

2. Heard learned counsel for the parties and perused the record.

3. According to the FIR, the brother of the informant was cheated and he was persuaded to deliver Rs.65-70 Lakh which he paid. It is the prosecution case that, in fact, the amount was deposited in the account of one CML Services, which was linked with the mobile number of the applicant. The applicant has been using the ATM of the account. It was confirmed by the bank account and CCTV footage of the withdrawal of the account.

4. Learned counsel for the applicant would submit that there is no evidence against the applicant. The prosecution has raised mere allegations. He would submit that signatures on the account opening form have not been verified by the prosecution. ATM has not been received as yet. There is no evidence that, in fact, the applicant was withdrawing the amount from the particular account through ATM.

5. On the other hand, learned State counsel would submit that the applicant opened the account by using photographs of his wife and father with the connivance of bank officials. The mobile number of the applicant was connected with the bank account of CML Services. The applicant has been using the ATM for withdrawing the money from that account. It has been verified by bank account and CCTV footages which have already been filed.

6. In fact, in the counter affidavit filed alongwith the first bail application, the printout of CCTV footages have also been filed which shows at what time withdrawal was made. It may very well be verified with the bank statement.

7. It is a case of Online fraud. Generally, direct evidence in such cases is very difficult to get. But, in the instant case, it is the categorical assertion of the

prosecution that the applicant has been deriving benefits of these transactions. He had opened the account. He was using the ATM and withdrawing money from the account in which the money was deposited by the brother of the informant.

8. Having considered, this Court is of the view that there is no ground to enlarge the applicant on bail. Accordingly, the bail application deserves to be rejected.

9. The bail application is rejected.

(Ravindra Maithani, J.)
03.03.2023

Jitendra