

**Court No. - 79**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 26781 of 2022

**Applicant :-** Suman Kumar

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sanjay Mishra

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Vidyarthi,J.**

1.Heard Sri Sanjay Mishra, the learned counsel for the applicant, Sri Jitendra Kumar Jaiswal, the learned A.G.A. for the State and perused the record.

2. Supplementary affidavit filed today is taken on record.

3.The present bail application has been filed by the applicant with the prayer to enlarge him on bail in Case Crime No. 05 of 2021, under Sections 419, 420, 467, 468, 471, 120-B I.P.C. and Section 66 of the Information Technology Act, P.S. Parikshtriya Cyber Crime Police, District Mirzapur.

4.The aforesaid case has been registered on the basis of an F.I.R. dated 09-08-2021 lodged by the Additional Chief Medical Officer, Sonbhadra stating that upon reconciliation of accounts of National Health Mission, the Accounts Manager, Sonbhadra informed by means of a letter dated 25-01-2021 that some transactions have been made in a fictitious manner and the same have not been made by the District Accounts Manager and Senior Assistant.

5. It transpired that a sum of Rs. 92, 10, 000/- had been transferred by unauthorized use of digital signature certificate.

6. After the aforesaid transaction, a sum of Rs. 1 lac was credited to the account of the applicant on 08-01-2021 and Rs. 2 lacs were credited to the applicant's account on 12-01-2021.

7. In paragraph 11,12 and 13 of the affidavit filed in support of the bail application it has been stated that a neighbour of the applicant namely Rahul Raj had taken the applicant's account for transfer of some amounts as his account was not functioning but when the applicant came to know that a sum of Rs. 3 lacs have been credited to his account, he asked Rahul Raj to withdraw it, who in turn told him that his cousin Sushil Kumar Tati has credited the amount.

8.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 25-04-2022. 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.

9.The learned A.G.A., on the basis of instructions has opposed the prayer for grant of bail to the applicant and has stated that the amount of Rs. 3 lacs have been credited the applicant's account in a wrongful manner and, therefore, the applicant cannot escape his criminal liability.

10. The learned counsel for the applicant has submitted that the co-accused persons namely Sanjeev Kumar Tati and Sushil Kumar Tati have already been released on bail by means of an order dated 29-08-2022 passed by the learned Sessions Judge, Mirzapur.

11.Having considered the aforesaid facts and submissions and keeping in view the fact that in the F.I.R. that is absolutely no allegation made against the applicant; that the only fact which came to light during investigation is that a sum of Rs. 3 lacs have been credited to the applicant's account in two transactions and no element of criminality has been imputed against the applicant in making the aforesaid transactions; that the co-accused persons namely Sanjeev Kumar Tati and Sushil Kumar Tati have already been released on bail : that the offences are triable by Magistrate Ist class and also keeping in view the fact that the applicant has no criminal history, I am of the view that the applicant is entitled to be released on bail pending conclusion of the trial. The bail application is accordingly allowed.

12.Let the applicant – **Suman Kumar** be released on bail in Case Crime No. 05 of 2021, under Sections 419, 420, 467, 468, 471, 120-B I.P.C. and Section 66 of the Information Technology Act, P.S. Parikshtriya Cyber Crime Police, District Mirzapur 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.

13. 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 :- 13.9.2022**

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