## **Court No. - 87**

Case: - CRIMINAL MISC. BAIL APPLICATION No. - 34426 of 2022

**Applicant :-** Jitendra Arya

**Opposite Party:** - Central Bureau Of Investigation

**Counsel for Applicant :-** Vijendra Kumar Mishra, Sr. Advocate

Counsel for Opposite Party: - Sanjay Kumar Yadav

## Hon'ble Dinesh Kumar Singh, J.

- 1. Heard Sri I.K. Chaturvedi, learned Senior Advocate assisted by Sri Vijendra Kumar Mishra, learned counsel for the accused-applicant as well as Sri Gyan Prakash, learned Senior Advocate and Deputy Solicitor General of India, assisted by Sri Sanjay Kumar Yadav, learned counsel for the Central Bureau of Investigation (for short 'CBI') and perused the record.
- 2. Learned counsel for the accused-applicant is permitted to correct the name of the accused-applicant in the memo of bail application during the course of the day.
- 3. The present application under Section 439 Cr.P.C. has been filed seeking bail in RC No.1202018A003, under Sections 120-B read with 409 and 420 IPC and Section 120-B read with 13(1)(c and d) read with 13(2) of Prevention of Corruption Act, Police Station CBI/ACB, Ghaziabad, District Ghaziabad.
- 4. The FIR No.RC1202018A0003 was registered by the CBI/ACB, Ghaziabad on 28.2.2018 under Sections 120-B, 409, 420, 467, 468 and 471 IPC, Section 13(2) read with 13(1)(d) of Prevention of Corruption Act and Section 66 read with 43 of the Information Technology Act. The persons, who are arrayed as accused, are Vipin Kumar, the then Branch Manager, Navin Kumar Sharma, the then Assistant Manager, Soubir Singh, the then Office Attendant of the Prtima Bank, Nagli Tehsil Hasanpur, District Amroha and the present accused-applicant, who was a business facilitator of the bank and was employed on contractual basis. The CBI after investigating the office, has

filed the charge sheet.

- 5. During the year 2016, co-accused Vipin Kumar, the then Branch Manager, N.K. Sharma, the then Assistant Manager and the present accused-applicant allegedly entered into a criminal conspiracy among themselves and in furtherance of criminal conspiracy, siphoned off the bank funds and the bank suffered the total loss of Rs.14,54,01,726/-.
- 6. It is further alleged that in furtherance of criminal conspiracy, co-accused Vipin Kumar and Navin Kumar Sharma, Branch Manager and the Assistant Manager by using their used IDs of the bank, fraudulently and dishonestly transferred the funds of 219 Pratima Kisan Credit Card Loans to the accounts opened by them. It is also alleged that the said money was transferred in the accounts of the family members of Vipin Kumar and some amount as also transferred in the account of the present accused-applicant.
- 7. The investigation revealed that 219 Kisan Credit Card Loans were sanctioned without following the procedure prescribed and the bank had to reimburse the amount to the farmers from whose accounts the money was transferred by the Branch Manger and the Assistant Manager.
- 8. Learned counsel for the accused-applicant submits that total amount of Rs.4,53,000/- was transferred in the account of the accused-applicant. The is no allegation that he misused the user ID of the bank inasmuch as he was only a contractual employee on temporary basis and he had no access to the user ID and password of the bank. The fraud might have been committed by Vipin Kumar and Navin Kumar Sharma. Navin Kumar Sharma has already been enlarged on bail by this Court vide order dated 23.7.2022 passed in Criminal Misc. Bail Application No.18172 of 2022. He further submits that this Court earlier had directed

the accused-applicant to bring the bank drafts of Rs.4,53,000/-, which he has brought and he may be permitted to deposit this amount in the bank as a condition precedent for granting him bail without prejudice to his rights and contentions in the trial.

- 9. Learned counsel for the CBI has opposed the prayer for bail, but not disputed the fact that co-accused Navin Kumar Sharma has already been enlarged on bail by this Court and except the amount of Rs.4,53,000/- no other amount has been credited to the bank account of the accused-applicant. This fact has also not disputed by the CBI in its counter affidavit that except of Rs.4,53,000/-, no other amount was credited to the account of the accused-applicant.
- 10. Considering the above facts and circumstances of the case and taking into account the fact the accused-applicant has been in jail since 5.4.2022 and co-accused Navin Kumar Singh has already been enlarged on bail by this Court and the accused-applicant has brought two bank drafts bearing Nos.733947 and 733948 drawn on State Bank of India, Hasanpur Branch for amounts of Rs.15,000/- and Rs.4,38,000/- (Total Rs.4,53,000/-) to deposit the same in the concerned bank, it would be appropriate to enlarge the accused-applicant on bail.
- 11. Let applicant be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions:-
- (i) The applicant shall deposit the above two cheques in Pratima Bank, Hasanpur Branch, District Amroha and will submit proof of deposition with the bail bonds.
- (ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of

this condition, it shall be open for the trial court to treat it as

abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the trial court on

each date fixed, either personally or through his counsel. In case

of his absence, without sufficient cause, the trial court may

proceed against him under Section 229-A of the Indian Penal

Code.

(iv) In case, the applicant misuses the liberty of bail during trial

and in order to secure his presence proclamation under Section

82 Cr.P.C. is issued and the applicant fails to appear before the

court on the date fixed in such proclamation, then the trial court

shall initiate proceedings against him, in accordance with law,

under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present, in person, before the

trial court on the dates fixed for (i) opening of the case, (ii)

framing of charge and (iii) recording of statement under Section

313 Cr.P.C. If in the opinion of the trial court absence of the

applicant is deliberate or without sufficient cause, then it shall

be open for the trial court to treat such default as abuse of

liberty of bail and proceed against him in accordance with law.

**Order Date :-** 3.2.2023

Rao/-