

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48813 of 2022

Applicant :- Akash Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Diwan Saifullah Khan, Abhishek Ankur
Chaurasia

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Diwan Saifullah Khan, the learned counsel for the applicant, Sri Arun Kumar Pandey, the learned Additional Government Advocate and perused the record.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 63 of 2022, under Sections 419, 420 IPC and 66-C of Information Technology Act, Police Station Chandauli, District Chandauli.

3. The aforesaid case has been registered on the basis of an FIR lodged on 11.04.2022 by the Station House Officer alleging that on 26.02.2022 at 15:20 hours, an e-mail was sent from ID- "honblemrjusticemaheshtripathi@gmail.com" to the Superintendent of Police, Chandauli and Additional Superintendent of Police, Chandauli by some unknown person tarnishing the image of the office of a Judge of the Hon'ble High Court of Judicature at Allahabad.

4. During investigation, the mail was traced to a sim card which has been issued in the name of one Saif. Saif stated that the aforesaid SIM was handed over by him to one Zafar Khan. Zafar in turn stated that the mobile and the SIM had been used temporarily by the applicant.

5. The e-mail that was sent through the aforesaid e-mail ID has also been annexed with the affidavit. The e-mail which has purportedly been sent by an Hon'ble Judge of this Court addressed to the Senior Superintendent of Police complains that while the Hon'ble Judge was traveling to Delhi and he was passing through Chandauli, another car mentioned in the e-mail overtook the Judge's car and used abusive language with the security personnel and the man identified himself as Ashutosh Kumar Singh. The e-mail requested the police authorities to take action against Ashutosh Kumar Singh.

6. 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 20.09.2022. 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.

7. A supplementary affidavit has been filed on behalf of the applicant discloses his involvement in four other cases, in three of which he has already been granted bail. Case Crime No. 62 of 2022, under Sections 419,

420 IPC and 66 of Information Technology Act and has been lodged along with the present case and the bail application in that case is pending.

8.The learned counsel for the applicant has submitted that the allegations levelled in the FIR do not make out commission of an offence under Sections 419, 420 IPC at the most, it may make out commission of an offence under Section 66-C of the Information Technology Act, which carries a maximum punishment of imprisonment for upto three years, which is a bailable offence.

9.Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail, but he could not dispute the aforesaid aspects of the matter.

10.Having considered the aforesaid facts and circumstances and keeping in view the fact that prima facie, the allegations levelled in the FIR do not make out commission of offences under Sections 419, 420 IPC and the offence under Section 66-C is a bailable offence carries a punishment of imprisonment of three years only, I am of the view that the applicant is entitled to be released on bail.

11.In light of the preceding discussion and without making any observation on the merit of the case, the instant bail application is allowed.

12.Let the applicant **Akash Singh** be released on bail in Case Crime No. 63 of 2022, under Sections 419, 420 IPC and 66-C of Information Technology Act, Police Station Chandauli, District Chandauli on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the 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 before this Court seeking cancellation of the bail.

Order Date :- 15.12.2022

Ashish Pd.