

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 18380 of 2022

**Applicant :-** Pravesh Pathak

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

**Counsel for Applicant :-** Birendra Singh, Himanshu Upadhyay, Prabhat Chandra Sharma

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

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

1. Heard Sri Prabhat Chandra Sharma, 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.11 of 2021, under Sections 419, 420, 467, 468, 471, 34 IPC and 66D of the Information Technology Act, Police Station Cyber Crime, District Moradabad.

3. The aforesaid case has been registered on the basis of a first information report dated 21.07.2021 lodged against five named accused persons, alleging that in August 2020, the co-accused Rajesh Mishra, who is said to be an agent had made a phone call to the brother of informant requesting him to purchase a life insurance policy. As per the FIR averments, on several offers shown by Rajesh Mishra, the informant's brother made payment of various amounts for several insurance policies issued by the insurance company. The FIR further alleges that the named co-accused Rajesh Mishra offered the informant's brother that he could get him a loan of Rs. 10 lacs on the basis of security of the policies purchased by him. It is alleged in the FIR that on the instigation of co-accused Rajesh Mishra, one Mr. Bansal and Ajay Srivastava, the informant's brother had deposited various amounts on various dates in various accounts and the total amount of Rs. 44,34,000/- was deposited.

4. In the affidavit filed in support of the bail application, it has been stated that the applicant was not named in the F.I.R. and the named co-accused Vinod Kumar in his statement under Section 161 Cr.P.C. has stated that the duped amount was handed over by one Monu Tyagi @ Mukesh Tyagi to one Amit Kumar and the applicant. On the basis of this statement, the co-accused Amit Kumar was apprehended and he also gave statement that he

used to withdraw the amount from his account and hand it over to the applicant.

5. The applicant is languishing in jail since 21-02-2022.

6. The learned counsel for the applicant has submitted that named co-accused Vinod Kumar has been granted bail by this Court by means of an order dated 22-08-2022 passed in Criminal Misc. Bail Application No. 26663 of 2022. The co-accused Amit Kumar on the basis of whose statement the applicant has been implicated has also been granted bail by means of an order dated 20-09-2021 passed by the learned Sessions Judge, Court No.7, Moradabad in Bail Application No. 3220 of 2021 whereas the applicant is languishing in jail since 21-02-2022. The two other co-accused persons Asif Khan and Salim Khan have also been granted bail by means of an order dated 20-09-2021 and 07-02-2022 passed by the learned court below.

7. 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.

8. Having considered the aforesaid facts and submissions, particularly the fact that the alleged victim of the offence has not come forward to lodge the FIR ; that there is no allegation that the applicant has demanded any money from the informant's brother; that no amount has been deposited in the applicant's account; that the applicant has no previous criminal history and that the other co-accused persons have already been granted bail, I am of the view that the applicant is entitled to be released on bail in the aforesaid case.

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

10. Let the applicant **Pravesh Pathak** be released on bail in Case Crime No.11 of 2021, under Sections 419, 420, 467, 468, 471, 34 IPC and 66D of the Information Technology Act, Police Station Cyber Crime, District Moradabad 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.

11. 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 :-** 1.9.2022

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