

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38495 of 2022

Applicant :- Vivek Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Virendra Kumar Yadav

Counsel for Opposite Party :- G.A., Chandan Sharma

Hon'ble Ajay Bhanot, J.

Supplementary affidavit filed by the applicant is taken in the record.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No.16 of 2022 at Police Station-Cyber Crime, District-Varanasi under Sections 406, 420, 411 IPC and Section 66D of the Information Technology Act. The applicant is in jail since 29.04.2022.

The bail application of the applicant was rejected by learned trial court on 29.04.2022.

The following arguments made by Shri Virendra Kumar Yadav, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Abhishek Chandra, learned counsel holding brief of Shri Chandan Sharma, learned counsel for the informant and Shri Rishi Chaddha, learned A.G.A. from the record, entitle the applicant for grant of bail:

- (1). Recoveries were not made from the applicant.
- (2). Items in the nature of cooler, amplifiers, door

lamp, etc. were recovered from the godown.

(3). The applicant has been scapegoated due to an employer employee dispute.

(4). The informant is an MLA and powerful person who has falsely implicated the applicant to avoid paying his dues.

(5). The applicant does not have any criminal history apart from the instant case.

(6). The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-Vivek Kumar be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court

on the date fixed, unless personal presence is exempted.

Order Date :- 13.1.2023

Ashish Tripathi