

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 48699 of 2022

**Applicant :-** Bhuleshwar Nath Mishra

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

**Counsel for Applicant :-** Shashi Shekhar Mishra

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

**Hon'ble Piyush Agrawal,J.**

Heard learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No. 36 of 2022, under Sections 420, 406, 467, 468, 471 IPC and Section 66D of the Information Technology Act, Police Station- Cyber Crime, District - Gautam Budh Nagar.

Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present crime. It is submitted that the applicant entered into a business of online trading to which the informant also invested money, an amount of 33 lac was transferred in the account of the applicant, which was done on the assurance of Ani. It is further stated that the applicant is ready to refund the said amount and handed over two cheques of 16 lac 50 thousand each to which the informant as no objection. It is further stated that the applicant has no intention of forgery. It is further stated that the applicant has neither committed any cheating nor breach of trust with the informant. It is also submitted that there is no apprehension that after being released on bail, he may flee from the course of law or may, otherwise, misuse the liberty of bail and the applicant is in jail since 9.9.2022 and the possibility of conclusion of trial in near future is very bleak.

Learned A.G.A. has, however, opposed the prayer for grant of bail.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let applicant namely Bhuleshwar Nath Mishra be released on bail in the aforesaid Case Crime Number on his furnishing 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 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.

(ii) 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.

(iii) In case, the applicant misuse 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 fail 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.

(iv) 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.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

**Order Date :-** 2.11.2022

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(Piyush Agrawal, J.)