

# Vashist Tiwari vs State Of U.P. on 17 December, 2019

**Author: Sanjay Kumar Singh**

**Bench: Sanjay Kumar Singh**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 73

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53934 of 2019

Applicant :- Vashist Tiwari

Opposite Party :- State of U.P.

Counsel for Applicant :- Devendra Pratap Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

Heard learned counsel for the applicant, learned Additional Government Advocate representing the State and perused the record of the case.

By means of this application, the applicant Vashist Tiwari, who is involved in Case Crime No. 119 of 2019, under sections 419, 420, 467, 468, 471 IPC and section 66-D of Information & Technology Act, police station Shivkuti, district Prayagraj, is seeking enlargement on bail during the trial.

It is submitted by learned counsel for the applicant that the applicant is absolutely innocent and has falsely been implicated in the present case with some ulterior motive. It is further submitted by learned counsel for the applicant that on 12.04.2019, first information report was lodged against three accused persons, namely, Hemant Banerjee, Madan Kumar and Vashist Tiwari (present applicant) making allegation inter alia that accused persons in collusion with each other used to extract money from innocent persons on the assurance and promise to provide service to them by

adopting different modus operandi. On the aforesaid allegation, it is submitted by the learned counsel for the applicant that as per prosecution case, co-accused Hemant Banerjee and Madan Kumar were apprehended by the police on the spot and in their confessional statements, name of present applicant Vashist Tiwari has surfaced in this case. It is further submitted that both the aforesaid named accused persons, namely, Hemant Banerjee and Madan Kumar have been granted bail by Co-ordinate Bench of this Court vide orders dated 10.07.2019 and 17.09.2019 in Criminal Misc. Bail Application Nos. 24475 of 2019 and 26279 of 2019 respectively. It is also contended by the learned counsel for the applicant that it is admitted case of the prosecution that the applicant was not arrested on the spot and nothing has been recovered from his possession. It is also alleged that in fact the applicant was lifted from his house on 07.04.2019 by the police of police station Cyber Crime, district Lucknow, and thereafter, he was implicated in Case Crime no. 01 of 2019, under sections 419, 420, 467, 468, 471, 473, 34 IPC and section 66 D of I.T. Act, police station Cyber Crime, district Lucknow, in which he has already been granted bail by Co-ordinate Bench of Lucknow Bench of this Court vide order dated 26.09.2019 in Bail No. 5565 of 2019. It is also submitted that the applicant is languishing in jail since 07.04.2019. It is next contended that there is no chance of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. Learned counsel for the applicant lastly submitted that if the applicant is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra, learned Additional Government Advocate has opposed the bail prayer of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage therefore, the applicant does not deserve any indulgence. In case, the applicant is released on bail, he will misuse the liberty of bail.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, I am of the view that the applicant has made out a fit case for bail. Hence, the bail application is hereby allowed.

Let the applicant Vashist Tiwari, 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 concerned with the following conditions which are being imposed in the interest of justice:-

- i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.
- ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.
- (iii) The applicant will not indulge in any unlawful activities.
- (iv) The applicant will not misuse the liberty of bail in any manner whatsoever.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

It is clarified that anything said in this order is limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. It is further clarified that the trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 17.12.2019 Sazia