

Jerome Balla @ Sunday Dumaka vs State Of U.P. Thru. Prin. Secy. Home ... on 2 May, 2025

Author: Manish Mathur

Bench: Manish Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:25559

Court No. - 13

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11981 of 2024

Applicant :- Jerome Balla @ Sunday Dumaka

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

Counsel for Applicant :- Manish Kumar Tripathi,Aditya Vikram Singh,Ashok Kumar Singh Tom

Counsel for Opposite Party :- G.A.

Hon'ble Manish Mathur,J.

1. Heard learned counsel for applicant, learned Additional Government Advocate appearing on behalf of State and perused the record.
2. This second bail application has been filed with regard to Case Crime No.48 of 2021, under Sections 419, 420, 467, 468, 471 IPC and Section 66/66D IT Act, registered at Police Station Cyber Crime Police Station, District Lucknow.
3. First bail application of applicant was rejected by this Court vide order dated 11.01.2024 which appears to have been rejected primarily on the ground that original passport of applicant has expired on 09.12.2024 and the tourist visa granted to applicant also had a validity only up till 10.11.2016 whereafter applicant has been residing in India illegally and if granted liberty of bail,

odds of him cooperating with trial is very narrow. It has also been indicated that instant case is a classic example of organized cyber crime.

4. As per contents of FIR, the applicant was lured into depositing Rs.10,00,000/- in various accounts on the pretext of being sent a gift by the applicant.

5. Learned counsel for applicant submits that even after one year having been passed from rejection of the earlier bail application, only two prosecution witnesses have been examined with examination of third prosecution witness underway while charge-sheet clearly indicates eight prosecution witnesses. It is submitted that applicant is under incarceration since 15.09.2022 and there is no hope of early conclusion of trial. It is also submitted that rejection of bail order has not adverted to the cross-examination of P.W.1 in which it has been clearly indicated that the amount was not sent to any account bearing the name of applicant. It is therefore submitted that there is no direct or indirect evidence against the applicant.

6. Learned Additional Government Advocate appearing on behalf of State has opposed the bail application with the submission that it was in fact the mobile of applicant which was utilized for purposes of receiving the amount. It is however admitted that as yet three prosecution witnesses have been examined.

7. Hon'ble the Supreme Court in Sanjay Chandra v. Central Bureau of Investigation, reported in (2012) 1 SCC 40 has specifically held that bail is to be a norm and an under-trial is not required to be in jail for ever pending trial. Relevant paragraphs of the judgment are as under :-

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

"27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution."

8. Considering submissions advanced by learned counsel for parties and upon perusal of material available on record, it appears that subsequent to rejection of first bail application, deposition of informant as P.W.1 has concluded but specifically states that the amount was sent to various accounts which were not in the name of applicant. The aspect of utilization of applicant's mobile phone for the purposes deceiving the informant would be subject matter of evidence during the course of trial. The applicant is under incarceration since 15.09.2022. As per report received from trial court dated 21.03.2025, three prosecution witnesses have been examined whereafter five prosecution witnesses still remain. Evidently there is no hope of early conclusion of trial.

9. Looking to the nature of allegations levelled against the applicant and submission made in the bail application, without expressing any opinion on the merits of case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, particularly since no reasonable apprehension of tampering with the witnesses has been alleged, prima facie, this Court finds, the applicant is entitled to be released on bail in this case.

10. Accordingly bail application is allowed.

11. Let applicant, Jerome Balla @ Sunday Dumaka involved in the aforesaid case crime be released on bail on his/her 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 shall deposit passport and shall not leave India without previous permission of the court;

(ii) The applicant shall file an undertaking to the effect that she/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.

(iii) The applicant shall remain present before the trial court on each date fixed, either personally or through his/her counsel. In case of his/her absence, without sufficient cause, the trial court may proceed against him/her under Section 229-A of the Indian Penal Code.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his/her presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him/her, in accordance with law, under Section 174-A of the Indian Penal Code.

(v) 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/her in accordance with law.

12. Office is directed to intimate the prosecution agency to communicate this order granting bail to concerned Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992 for further communication to all concerned authorities including civil authorities.

Order Date :- 2.5.2025 Subodh/-

