

# **Jerome Balla @ Sundae Dumaka vs State Of U.P. Thru. Prin. Secy. Annexe ... on 11 January, 2024**

**Author: Renu Agarwal**

**Bench: Renu Agarwal**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2024:AHC-LK0:3136

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14533 of 2022

Applicant :- Jerome Balla @ Sundae Dumaka

Opposite Party :- State Of U.P. Thru. Prin. Secy. Annexe Bhavan Lko.

Counsel for Applicant :- Nagendra Bahadur Singh, Anita Singh, Ashok Kumar Mishra, Rajendra

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the entire material record.
2. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No. 48 of 2022 under Sections 419, 420, 467, 468, 471 I.P.C. and Section 66/66D I.T. Act, Police Station Cyber Crime, District Lucknow with the prayer to enlarge him on bail.

3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. Allegations levelled as per the F.I.R. is that applicant in disguise of a woman send a friend request on social media website to the complainant and after several exchange of messages the applicant lured the complainant into depositing more than 10 Lacs Rupee into various accounts on the pretext of sending the complainant a gift on account of birthday of the alleged woman. It is submitted that applicant is not the beneficiary of the alleged transaction and no amount has been credited to his account, moreover, there is nothing on record to connect that the alleged accounts were in any way connected with the applicant. It is further submitted that applicant is not named in the F.I.R. and the F.I.R. has been filed after an inordinate delay of six months without any explanation. It is contended that the case is triable by Magistrate and applicant is languishing in jail since 15.09.2022 having no criminal history to his credit and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds and shall co-operate in trial.

4. Per contra, learned AGA for the State has opposed the prayer of bail and submitted that applicant indeed impersonated himself as a woman and made several phone calls changing his voice with a voice changing App and lured the complainant into depositing more than 10 Lacs of Rupee into various accounts. It is further submitted that the alleged mobile phone which was used in the said crime has been recovered from the possession of the applicant. It is contended that it is evident from the Call Detail Record ("CDR" for short) that there were recurrent phone calls between the applicant and the complainant. The applicant is non native of India and is an African origin, hence, if he is granted the liberty of bail he may surely abscond, he may also leave the country without the conclusion of trial.

5. I have heard the rival submissions advanced on behalf of the parties and perused the entire materials brought on record.

6. Perusal of the record reveals that the mobile phone which was used in the alleged cyber crime has been recovered from the possession of the applicant. It is also evident from the CDR that recurrent phone calls have been made to the complainant luring him into depositing 10 Lacs Rupee into various bank accounts, however, during investigation those accounts could not be connected with the accused. During the course of argument, learned counsel for the applicant produced before the Court original passport of the applicant which is to be expired on 09.12.2024. Perusal of the passport reveals that visa granted to the applicant is a tourist visa having validity from 10.08.2016 till 10.11.2016. The said visa has already expired on 10.11.2016 and the applicant has since been residing in India illegally and committed cyber crime overseas, if the applicant is granted liberty of bail, the odds of him in co-operating with the trial till its conclusion is very narrow. Crime committed in the instant case is a classic example of organized cyber crime, hence, the applicant does not deserve the liberty of bail at this stage.

7. In view thereof, instant application for bail is hereby rejected for the present.

(Renu Agarwal,J.) Order Date :- 11.1.2024 Karan