

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37337 of 2022

Applicant :- Anil Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Singh,A.Z.Khan,Akshaivar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri A.Z.Khan, the learned counsel for the applicant, Sri Arun Kumar Pandey, the learned Additional Government Advocate and perused the record.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 85 of 2022, under Sections 379, 411 IPC, Section 66 of Information Technology Act, Police Station Sadar Bazar, District Saharanpur during pendency of the trial in the Court below.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 15.02.2022 by one Pradeep Kumar Sharma, Advocate, Chamber No. 236, Civil Court, Saharanpur complaining that on 01.02.2022, some one had withdrawn Rs. 500/- and Rs. 15,000/- from the current account of the informant's firm M/s Ayurherbs Remedies India.

4. On 09.05.2022, the Police has arrested five accused persons, including the applicant on the basis of information received from a Mukhbir and 29 A.T.M. card and Rs. 16,000/- are said to have been recovered.

5. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has been falsely implicated in the present case and he has no previous criminal history. After arrest of the applicant, he has been implicated in as many as six cases, the particulars whereof has been mentioned in paragraph No. 6 of the affidavit.

6. The learned counsel for the applicant has submitted that co-accused Sumit @ Mitta who was arrested alongwith the applicant has already been granted bail by means of an order dated 12.10.2022 passed by this Court in Criminal Misc. Bail Application No. 35728 of 2022. Another co-accused Monu Kumar has also been granted bail by means of an order dated 18.10.2022 passed by this Court in Criminal Misc. Bail

Application No. 34315 of 2022.

7. The applicant is languishing in jail since 10.05.2022.

8. Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail.

9. Having regard to the aforesaid facts and submissions and keeping in view the fact that the alleged fraudulent withdrawal was made on 02.02.2022 whereas the F.I.R. has been lodged on 15.02.2022 and there is no explanation for the delay; the F.I.R. was lodged against unknown person; the applicant has been implicated in the present case on the basis of his alleged confessional statement recorded by the Police after his arrest in another case and two of the co-accused persons have already been granted bail in the present case, I am of the view that the applicant is entitled to be released on bail.

10. In light of the preceding discussion and without making any observation on the merits of the case, the instant bail application is **allowed**.

11. Let the applicant **Anil Kumar** be released on bail in Case Crime No. 85 of 2022, under Sections 379, 411 IPC, Section 66 of Information Technology Act, Police Station Sadar Bazar, District Saharanpur on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the following conditions:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

12. In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

13. However, before parting with the case, the Court is constrained to take note of the fact that the informant has described himself as an Advocate whereas he has mentioned in

the F.I.R. that he is proprietor of "*M/s Ayurherbs Remedies India*"; it appears from the F.I.R. itself that the informant-Advocate is running business also.

14. The Bar Council of Uttar Pradesh is directed to make inquiry in the matter and take suitable action in accordance with law. A copy of this order be sent to the Secretary, Bar Council of Uttar Pradesh for taking suitable action.

Order Date :- 3.11.2022

Jaswant