

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1812 of 2020

Applicant :- Prakash @ Jai Prakash Ruhela

Opposite Party :- State of U.P.

Counsel for Applicant :- Atul Verma, Hari Krishna Verma

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

Heard Sri Atul Verma, learned counsel for the applicant and Sri Pradeep Tiwari, Advocate holding brief of Sri Shiv Nath Tiwari, learned AGA appearing on behalf of the State ATS and also perused the material available on record.

By means of the present application, the applicant- Prakash @ Jai Prakash Ruhela, seeks bail in Case Crime No.07 of 2019, under Sections 420, 467, 468, 471 IPC, Police Station- ATS Gomti Nagar, District- Lucknow, during the pendency of trial.

As per the allegations of the First Information Report dated 25.11.2019, the State ATS received an information that a person, namely, Prakash is in touch with Pakistani nationals, namely, Mamu, Neer and Asar who are involved in a racket of running fake lotteries in India. On the information of a squealer, one person came on a Scooty bearing no. UP-14 BK 8077 and stopped at a liquor shop and alighted from an auto at the same place and they were caught talking to each other. On being asked to identify themselves, one Prakash @ Jai Prakash Ruhela (the applicant) was apprehended and 30 ATM cards, his Driving Licence, Rs.2500/- cash, three mobile phones and one samsung tablet were recovered from his possession. He told the police that he was in touch with the pakistani handlers engaged in fake lottery by his mobile numbers 7078748746 and 8876769725. The other person has identified himself as

Dhiruddin Chaudhary and from his possession, five passbooks, three cheque books, his driving licence, aadhar card, two ATM cards, Rs.500/- and one mobile were recovered. Both persons confessed to be involved in duping the Indian nationals by opening fake accounts thereby facilitating in the Pakistani nationals in using the said account.

Learned counsel for the applicant has contended that the applicant is maliciously being prosecuted in the present case at the inkling and connivance of local police and interested persons to victimize him. He has not committed any offence whatsoever. The applicant has been named on the basis of his confession before the police which is not admissible in law. The applicant is the bonafide owner of the recovered articles. The applicant has nothing to do with the co-accused Dhiruddin Chaudhary. The applicant is wanted in one more case of similar kind in the State of Uttarakhand. Learned counsel has further submitted that the charge-sheet has been filed against the applicant but there is no evidence whatsoever against the applicant being indulged in any kind of anti national activities or terror funding. On various occasions, the prosecution has sought time to get the evidence against the applicant pertaining to be indulged in anti national activities but no evidence of terror funding was either found or brought on record by it. The trial has not proceeded any further as even the charge have not been framed against the applicant. The applicant is languishing in jail since 25.11.2019 and he deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with the trial.

Per contra, Sri Pradeep Tiwari, Advocate holding brief of Sri Shiv Nath Tiwari, learned AGA appearing on behalf of the State ATS has vehemently opposed the bail prayer of the applicant on

the ground that the accused used to open fake accounts on the basis of forged documents and asked the Indian nationals to deposit their money in the said fake accounts on the pretext of getting lottery and after deducting their commissions, the accused persons transferred the remaining amount to the accounts of Pakistani handlers. He has further stated that on the data analysis of the recovered phone, it has been proved that many account numbers and cash deposit receipts have been sent to Pakistan through Whatsapp. He has also referred statements of various persons who have been duped by the said nexus run by the applicant and the co-accused Dhiruddin Chaudhary with Pakistani nationals. Learned AGA has further referred to various JPEG files wherein there is evidence of the said transactions having taken place. He has also stated that there is no explanation of recovery of 32 ATM cards, 5 passbooks, 3 cheque books, four mobile phones and one tablet from the applicant. Learned AGA has referred various transactions undertaken in the bank statements of the applicant between 17.02.2017 to 25.12.2019 and that too in the account of the applicant and his deceased wife Shashi Ruhela. The evidence collected during investigation categorically establishes the offences and the activity of the accused applicant with the handlers sitting in Pakistan. He has further stated that the charge-sheet against the applicant has been filed for the offences u/s 420, 467, 468, 471 and 120-B IPC and further investigation of the case is still in progress. He has further stated that on the data analysis of aforesaid mobile numbers has revealed the details of the Whatsapp chatting and audio clips with the handlers sitting in Pakistan wherein 81 bank deposit receipts have also been sent to Pakistani handlers as proof of deposit. Much reliance has been placed on the statements of victims, namely, Hemant Kumar, Smt. Asha Devi and Mohd.

Salam Ansari categorically establishing the factum of cheating.

Considering the facts and circumstances of the case, number of articles recovered from the possession of the applicant and also the evidence placed on record as well as the submissions advanced by the learned counsel for the parties, this Court is of the view that since the matter pertains to national security although the provisions of Unlawful Activities (Prevention) Act have not been initiated against the applicant as yet, this Court does not find it a fit case for bail.

In view of the above, the bail application of the applicant is **rejected**.

It is further provided that the said observations shall have no bearing whatsoever on the merits of the trial.

Order Date :- 14.3.2022
Siddhant