

Judgment Reserved on 09.01.2025

Judgment Delivered on 17.01.2025

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23954 of 2024

Applicant :- Nishant Roy

Opposite Party :- State of U.P.

Counsel for Applicant :- Alok Kumar Srivastava, Raghuvansh Misra, Shivendra Kumar Singh, Yadavendra Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Ashutosh Srivastava, J.

Heard Sri Raghuvansh Misra, learned counsel for the applicant, Sri Yagvalkya Pandey, learned A.G.A. for the State and perused the material on record.

The instant bail application under Section 439 of the Code of Criminal Procedure has been filed seeking the release on bail of the applicant Nishant Roy son of Dev Roy in Case Crime No. 08 of 2024, under Sections 384, 406, 419, 420, 506, 507 & 34 of the Indian Penal Code & Sections 66-C & 66-D of the Information Technology (Amendment) Act, 2008 registered at Police Station Cyber Crime, District Prayagraj. The bail application of the applicant was rejected by the Additional Sessions Judge/Additional Special Judge (POCSO) Court No. 2, Prayagraj, vide order dated 27.05.2024. The applicant is languishing in jail since 07.05.2024.

As per prosecution case, a FIR giving rise to the aforesaid Case Crime Number was lodged by the First Informant Smt. Kakoli Das Gupta on 27.04.2024 alleging that she was contacted on telephone by representative of the Courier Company Fedex International Courier namely Abbi Kumar (Employee No. F & D 7216) informing that a parcel containing illegal materials (200 gm MDMA, 5 Laptops, 3 Credit Cards etc.) has been sent to Taiwan in her name and transferred the call to Cyber Crime Main Branch, Mumbai to lodge a complaint. A person in Police Uniform introducing himself as Deputy Commissioner of Police, Crime Branch told the informant that in order to investigate the matter the

details of all her Bank Accounts would be required, he coerced her to reveal the Bank Account details and transferred various amounts totaling Rs. 1,48,30,000/- from SBI Account No. 42845617282 and 42659149133, Yes Bank Account No. 1463400004575 through RTG. A sum of Rs. 22,30,000 and Rs. 48,00,000 were got transferred on 23.04.2024. A sum of Rs. 30,00,000 and Rs. 32,00,000/- were got transferred on 24.04.2024 while a sum of Rs. 15,00,000 was got transferred on 25.04.2024.

It is contended that the application is a student of BBA, 6th Semester and is also not named in the FIR but during the course of the investigation he has been falsely implicated on the basis of the name of one Dev Kumar (who happens to be his father) taken by accused Rama @ Chetan in his confessional statement. It is also submitted that a false recovery and arrest memo has been prepared by the concerned Investigating Officer showing the recovery of 3 mobiles, 2 pre-activated SIMs and Cheque Book from the applicant. It is also argued that no transaction has been done in the account of the applicant and no offence under Sections 384, 406, 419, 420, 506, 507, 34 IPC and Sections 66-C and 66-D of the Information Technology (Amendment) Act, 2008 is made out. Even otherwise, it is submitted that the offences alleged are triable by Magistrate and attract a maximum punishment of 7 years imprisonment. It is contended that the applicant cannot be implicated as an accused only on the basis of confessional statement of co-accused. The applicant is languishing in jail sine 07.05.2024. The charge-sheet has been submitted on 27.06.2024, however, charges are yet to be framed. The custodial interrogation of the applicant is no longer required. Hence bail has been prayed for.

Per contra, learned AGA opposing the bail application of the applicant submits that the informant, a Senior Citizen, was digitally arrested and a sum of Rs. 1,48,30,000/- was syphoned from her Bank Accounts out of which a sum of Rs. 62 Lacs was transferred to the account of Sandhu Enterprises being Account No. 42659149133 which was run by the co-accused Amar Pal Singh and Karan Preet wife of Amar Pal Singh. The SIM of Mobile No. 9569931742 recovered from the applicant has been found connected to the Bank Account of Sandhu Enterprises (Account No. 42659149133). Charge-sheet has been filed against 4 persons including the applicant. However, co-accused Amar Pal Singh, Karan Preet wife of Amar Pal Singh, Devendra Kumar alias Dev Roy) are absconding and investigation is going on against them. It is contended that the complicity of the applicant is established and

he is not entitled to be released on bail.

This Court finds that in India, the rapid advancement of technology and the widespread adoption of digital infrastructure have led to a significant rise in cyber-crimes including phishing scams, ransomware attacks, cyber-stalking and data breaches. Initiatives like Digital India have accelerated the country's' digital transformation, but they have also exposed vulnerabilities that cyber-criminals exploit.

Cyber-crime has been affecting the people across the nation, irrespective of religion, region, education or class. Newspapers, Magazines, You Tube Channels and Social Media are brimming with ordeals of an uncountable number of innocent victim of the cyber-crime, who are defrauded of their hard earned money. Such cyber-crimes are rampant in our society, and must be curbed. Cyber-crime in our country is like a silent virus stealthy, disruptive, and costing society more than just money, but trust, security and progress.

In the case at hand, the charges are yet to be framed against the applicant. Investigation against the other co-accused Amar Pal Singh, Karan Preet and Devendra Kumar alias Dev Roy (father of the applicant) is still underway. In such circumstances, the Court is not inclined to release the applicant on bail.

Bail application is, accordingly, **rejected**.

Order Date :- 17.1.2025

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