

**Court No. - 64**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 22263 of 2021

**Applicant :-** Devendra Kumar

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Ashok Trivedi, Rahul Trivedi

**Counsel for Opposite Party :-** G.A., Sanjay Kumar Yadav

**Hon'ble Ajit Singh, J.**

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the entire record.

The present bail application has been filed by the applicant in criminal case relating to FIR No. RC 1202016A0004 dated 10.03.2016 (Annexure No. 1) under Section 120-B IPC read with Sections 420/471 of IPC r/w. 13(2)/13(1) (d) the Prevention of Corruption Act, 1988 lodged by CBI ACB (Central Bureau of Investigation-Anti Corruption Branch), District - Ghaziabad with the prayer to enlarge the applicant on bail.

The FIR of this case was lodged by the Regional Manager of the SBI bank against the present accused and other co-accused under the above mentioned sections of the IPC and PC Act. It was alleged that both these accused disbursed housing loans and personal loans to various borrowers. Borrowers did not refund the amount of the loans sanctioned and disbursed to them. The bank suffered a monetary loss to the tune of Rs. 4.66 crores.

The contention as raised at the Bar by learned counsel for the applicant is that applicant-accused is quite innocent and has been falsely implicated in the present case. It is submitted that the present accused was working in the bank on the post of a Field Officer and his duty was to convince the borrowers to apply for loans and the loans were sanctioned to the borrowers by the bank after taking the genuine papers from them as guarantee of the loans and if the loans have not been repaid by the borrowers, then, it cannot be said that the present accused has embezzled the bank money. It is also argued that there is no evidence on record which could show that any illegal gain or any wrongful gain had been taken or accepted by the present accused. Further argument is that during the examination of the papers, Investigating Officer noted that all the papers were found to be genuine. The relevant extract of his noting is quoted below:-

"I have examined the 45 housing loan files and the 6 Xpress loan files of SBI, Dabrai branch in question. After going through them and on being asked, it is stated that all the Title Deeds deposited by the loanees in the said 45 housing loans for obtaining the housing loan were got re-verified by the Bank from a lawyer (namely Shri Mahesh Chandra Jain @ M C Jain) who was on its approved panel. All the title deeds (against which the said 45 housing loans were sanctioned by the Bank and which were held by the bank as security and on which equitable mortgage was also created by the loanee in favour of the bank) were found to be genuine....."

The above statement of the Investigation Officer is available on page 68 of this bail application.

The learned counsel for the applicant further submits that there is no evidence on record that the present applicant has forged or fabricated any document in collusion with borrowers for securing loans to them. It is also submitted by the learned counsel that the family of the present applicant is at the verge of starvation after his dismissal from service. Lastly, it is argued that the applicant is in jail since 08.02.2021 and that in case applicant is enlarged on bail, he will not misuse the liberty of bail.

Learned counsel appearing for the CBI, Shri Gyan Prakash assisted by Shri Sanjay Kumar Yadav has opposed the bail application but he could not show any wrongful gain to have been received or achieved by the present applicant from any of the borrowers.

Keeping in view the submission of learned counsel for the parties, period of detention of the applicant and all the attending facts and circumstances of the case, without expressing any opinion on the merits of the case, at this stage, prima facie, a case for bail has been made out subject to the condition that the applicant will not tamper with any evidence and will cooperate in trial.

The prayer for bail is granted. The application is **allowed**.

Let applicant **Devendra Kumar** involved in the aforesaid crime be released on bail on furnishing a personal bond and two local sureties to the satisfaction of court concerned subject to the following conditions:-

(1). The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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;

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

(3). In case, the applicant misuses the liberty of bail and in order to secure his 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 may initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(4). 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad, self attested by the learned counsel for the applicant alongwith a self attested identity proof of the said persons (preferably Aadhar Card) mentioning the mobile number (s) to which the said Aadhar Card is linked before the concerned Court/Authority/Official.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

**Order Date :- 26.8.2021**

LBY