

**Court No. - 71**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 2997 of 2024

**Applicant :-** Himanshu Kanaujiya

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

**Counsel for Applicant :-** Vijai Prakash Yadav

**Counsel for Opposite Party :-** Arunesh Kumar Singh,G.A.

**Hon'ble Mrs. Manju Rani Chauhan,J.**

1. Supplementary affidavit filed by learned counsel for the applicant today in the Court, is taken on record. Office is directed to register the same.

2. Heard Mr. Vijai Prakash Yadav, learned counsel for the applicant, Mr. Arunesh Kumar Singh, learned counsel for the informant and Mr. D.P. Singh, learned AGA for the State.

3. The instant bail application has been filed on behalf of the applicant, **Himanshu Kanaujiya** with a prayer to release him on bail in Case Crime No. 369 of 2023, under Sections 406, 420, 467, 468, 471 I.P.C., Police Station-Kotwali, District-Jaunpur, during pendency of trial.

4. As per the allegation in the FIR, the applicant, promising to provide job to the informant, has taken Rs.1,60,000/- in his account and about Rs.4,00,000/- in cash and has given an appointment letter, which was found to be forged.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to *mala fide* intentions. He further submits that Rs.1,60,000/-, which has received in his account, is the money which the informant had taken from the applicant's mother and returned the same. He further submits that in order to save himself from returning the money, which he had taken from the applicant's mother, the informant placing forged documents has falsely implicated the applicant in the present case. He had never promised for providing any job nor has given any forged appointment letter to the informant. He further submits that the criminal history of the applicant has been explained in para 4&5 of the supplementary affidavit. He is languishing in jail since 01.12.2023. In case he is

released on bail, he will not misuse the liberty of bail and will cooperate in the trial by all means. Lastly, it is submitted that there is no chance of applicant fleeing away from judicial process or tampering with the witnesses.

6. Per contra, learned A.G.A. has opposed the bail prayer of the applicant by contending that the applicant has been cheated by taking amount of Rs.1,60,000/- in his account and Rs.4,00,000/- has been paid in cash and a forged appointment letter has been given. The forged appointment letter, which has been given by the applicant to the informant, is the part of case dairy and the Investigating Officer has found that the fraud and cheating has been done by the applicant. He further submits that apart from the cases explained by learned counsel for the applicant in para 4&5 of the supplementary affidavit, there is one more case, i.e. case crime no.72 of 2024, which is similar in nature. Therefore, there is sufficient evidence available on record against the applicant, hence the applicant is not entitled for bail at this stage.

7. I have heard learned counsel for the parties and gone through the record.

8. Perusal of the records goes to show that the applicant on the assurance of providing job, has been cheated by taking amount from the informant and a forged appointment letter has been given to him. The forged appointment letter, which has been given by the applicant to the informant, is the part of case dairy and the Investigating Officer has found that the fraud and cheating has been done by the applicant, therefore, it would be appropriate to refer to the relevant statutory provisions in this regard:-

***"406. Punishment for criminal breach of trust.—***

*Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

***415. Cheating.—***

*Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".*

*Explanation.— A dishonest concealment of facts is a deception within the*

meaning of this section.

**417. Punishment for cheating.—**

*Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.*

**420. Cheating and dishonestly inducing delivery of property.—**

*Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."*

9. While analyzing the above provisions, the ingredients therein to the present case, wherein, the complaint was lodged by the complainant, alleging that the informant was cheated by the accused under the guise of providing the job, this Court is of the view that a cognizable offence is made out to proceed against the accused person.

10. It is the specific allegation of the complainant that the accused person having received the money by making a promise that he would provide job, however, later committed breach of trust and thereby, fraudulently and dishonestly induced him since he did not provide any job nor returned the money.

11. The very term "unemployment" will sound the death knell for the future of the youth of this nation. Every individual would like to stand on his own legs to avert the reverberations of the said word "unemployment". Such untiring pursuit for employment by the youth is taken advantage of by certain sections/persons.

12. It is unfortunate that, now-a-days, everywhere in the country, bogus manpower consultant agencies and fake recruitment agencies are mushrooming with the main illegal object of luring the unemployed youth with employment in government sectors as well as in foreign countries. The youth too, without knowing the hidden agenda, are falling prey to such temptations of lucrative jobs and paying huge amounts even by selling the properties held by their families or availing loans from financial institutions with high rate of interest. While in some cases, the consultancies or agencies would disappear overnight with the amount collected from the victims, in some other cases, they used to issue fake appointment letters to the victims, who would know about the fraud played on them only at the time of joining the post. If

ultimately, he is cheated, his entire future will be in peril and it is not easy to restore normalcy in life by overcoming from the situation. In my firm view, these white-collar crimes, which have drastic effects, should be dealt with iron hands and severe punishment should be awarded to the culprits.

13. Taking into account the gravity of the offense, the evidence presented, the involvement of the accused, the severity of the punishment, and the arguments put forth by the learned counsel for both parties, I discern no compelling reason to exercise my discretion in favor of the accused applicant.

14. Accordingly, the bail application stands **rejected**.

15. It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

16. Let a copy of this order be communicated to the Additional Chief Secretary (Home) as well as Director General of Police, Uttar Pradesh, Lucknow.

17. Registrar Compliance shall send copy of this order to all concerned forthwith.

**Order Date :- 12.3.2024**

Jitendra/-