

**Court No. - 16**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 2133 of 2021

**Applicant :-** Kuldeep Sharma @ Kuldeep Hindu

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

**Counsel for Applicant :-** Brijendra Singh, 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 Ajay Kumar Srivastava, learned A.G.A. for the State and perused the material placed on record.

Applicant seeks bail in Case Crime No. 387 of 2020, under Sections 419, 420, 467, 469 IPC and Sections 66-C I.T. (Amendment) Act, Police Station Hazratganj, District Lucknow, during the pendency of trial.

As per prosecution story, the applicant is said to have formed websites [www.yogisena.org](http://www.yogisena.org) and [www.kuldeephindu.com](http://www.kuldeephindu.com) and is stated to have shown himself to be a international Hindu Leader (Yogi Sena Pramukh) in them, wherein he used to take money through public at large and has stated to have used the said amount himself. The applicant is stated to have used the mobile nos. 7900009179 and 01844030400 and is said to have operated mobile no. 7900009179 on WhatsApp, Facebook and Twitter handle with the same name. The applicant is said to have misused the popularity of the present Chief Minister of Uttar Pradesh and fooled various persons to deposit the money in the account indicated on the said websites.

Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case. It is further stated that the applicant had undertaken several social assignments and even organized several camps regarding blood donation etc. Learned counsel for the applicant has stated that he undertakes to not to use any website in future as they have already been closed by the Investigating Agency. The applicant is a law abiding citizen and there is no likelihood to him absconding. Learned counsel for the applicant has stated that he shall not use the said account in future either. Learned counsel has further stated that the applicant has no criminal history. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances

which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant is languishing in jail since 20.12.2020. In case, the applicant is released on bail, he will not misuse the liberty of bail.

Learned A.G.A. has vehemently opposed the bail application on the ground that the said account and the websites were being used even after the arrest of the applicant. An amount of Rs. 250/- is stated to have been deposited in the aforesaid account in the month of January, 2022 and the amount has received by the applicant through the said websites during the period of three years. Learned A.G.A. has further stated that mobile numbers indicated in the F.I.R. were being used with the malicious intent by the applicant although he has not disputed the fact that applicant has no criminal history and he is in jail since more than 1-1/2 years.

Considering the overall facts and circumstances of the case, and incarceration of the applicant, I find that it is a fit case for grant of bail and keeping in view the nature of the offence, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of **Dataram Singh Vs. State of U.P. and another** reported in (2018) 3 SCC 22 and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant **Kuldeep Sharma @ Kuldeep Hindu**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond of Rs. 1 Lakh and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when 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.

(ii) 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 IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before

the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicant shall be deposited his passport.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

**Order Date :- 4.8.2022**

Vikram