Gopi. Vs. State of U.P.

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SooperKanoon Citation : sooperkanoon.com/911579

Court : Allahabad

Decided On : Aug-02-2010

Judge : Shashi Kant Gupta, J.

Acts : Code of Criminal Procedure (CrPC) - section 156(3), Indian Penal Code (IPC) - Sections 406, 409, 420, 467, 468, 471, 120-B

Appeal No. : CRIMINAL MISC. BAIL APPLICATION No. - 20020 of 2010

Appellant : Gopi.

Respondent : State of U.P.

Advocate for Pet/Ap. : Rajiv Gupta; Dileep Kumar; Rajrshi Gupta, Advs.

Judgement :
1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.

2. According to the prosecution story, the applicant was working as a commission agent of All Bank Employees & Officers Co- operative Credit & Thrift Society Ltd., Agra and used to encourage the investors for depositing money in the said Society and thereby he, in connivance with the officials of the said Society, misappropriated a huge amount fraudulently.

3. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the case. He further submits that the F.I.R. was lodged in pursuant to an application filed under section 156(3) Cr.P.C.

without explaining the delay in filing the said application. He further submits that , in fact, the applicant and his family members, were duped by the office bearers of the said Society because the father of the applicant had opened an Account in the said Society and deposited huge amount and necessary deposit receipts have been issued by the Society in respect thereof but in spite of repeated demand no payment was made by the Society . He further submits that due to non payment of the money invested by the applicant's father faced a lot of financial hardship and was suffering from serious physical condition and ultimately he died due to shock . He further submits that since the office bearers of the said Society refused to make payment to the investors of their F.D.Rs. an F.I.R. was lodged on 24.7.2007 against the office bearers of the Society . He further submits that the investigation was entrusted to the C.B.C.I.D. and during investigatin he also interogated the applicant and made illegal demand from him and a complaint to that effect was sent by the applicant on 17.9.2008 to the Superintendant of Police, crime Branch, Economic Cell , Kanpur. He further submits that after sending the aforesaid complaint, the I.O. became annoyed with the applicant and in the concluding part of the statement of the complainant he added some allegations against the applicant and on the basis of the said allegation the applicant has also been dragged in the present case. Referring to the averments made in para 20 of the affidavit filed in support of the bail application, he further submits that Raj Kumar , one of the witnesses, has filed an affdavit deposing therein that the applicant Gopi has been falsely implicated and he is also one of the investors of the said Society and had never made any statement before any one to the effect that the applicant Gopi had ever encouraged or assisted him in making any investment in the said Society. He further submits that the applicant himself had made a complaint against one Juhi singh daughter of Dr. Jogender singh, an office bearer of the Society, for issuing a cheque of Rs. 1 lac which was disowned by the Bank. He further submits that, in fact, no such fraud or cheating , as alleged by the prosecution, was ever committed by the applicant nor there is any proof to that effect. He further submits that applicant has neither worked as a Commission Agent nor encouraged any investor in any manner to invest money in the said Society even then has been falsely implicated only with a view to harass, victimise and exert pressure on him at the behest of the investigating Officer who wanted to extract illegal money from the applicant. He further submits that the applicant has got no criminal history to his credit and there are no chances of his fleeing away from the judicial process or tampering with the prosecution evidence, and is in jail since 18.6.2010.

4. Per contra, learned A.G.A., submitted that the applicant while working as a Commissioner Agent, in connivance with one other co accused, got deposited a huge amount by encouraging the investors. He further submits that since a huge amount has been misappropriated amount by playing fraud and committing cheating, he does not deserve to be bailed out.

5. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment and submissions of the learned counsel for the parties, I am of the view that the applicant has made out a case for bail.

6. Let the applicant Gopi involved in Case Crime No. 571 of 2007 under Sections 406, 409, 420, 467, 468, 471, 120-B I.P.C., P.S. New Agra, District Agra be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i)The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not pressurize/ intimidate the prosecution witness.

(iii)The applicant will appear before the trial court on the date fixed.

(iv)The applicant shall report to the police station concerned in the first week of each month to show his good conduct and behavior. In case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail.