

CBI Case No. 42/2024

FIR/RC No. 048/2024/S0001

U/s. 120-B r/w Section 170, Section 420 r/w 511, 468, 471 of
IPC and Substantive offences thereof.

CBI Vs. Sunil Yadav & Ors.

CNR No. DLCT-12000086-2024

Bail application of applicant/accused

Sunil Yadav.

20.04.2024

Present: Sh. Saket Srivastav, ld. PP for CBI.
Sh. Ravinder Yadav, Sh. Pradeep Khokhar, ld.
Counsels for the accused/applicant Sunil Yadav.
HIO/Inspr. J.Chandra, in person.

**ORDER ON BAIL APPLICATION U/S. 437 Cr.PC FILED
ON BEHALF OF APPLICANT/ACCUSED SUNIL YADAV.**

1. Vide this order, I shall dispose of the bail application moved U/s. 437 CrPC on behalf of applicant/accused Sunil Yadav seeking grant of bail.

2. Reply on behalf of CBI to the bail application of the applicant/accused Sunil Yadav filed. Copy supplied to the ld. counsels for the applicant/accused.

3. Ld. PP for CBI submits that as per the instructions of the IO, the applicant/accused A1 Sunil Yadav does not have any previous involvement/conviction record.

CASE OF PROSECUTION:

4. The allegations of the prosecution against the applicant/accused are that the applicant/accused Sunil Yadav who was a constable in RPF, on 30.12.2023, impersonated himself as a CBI official from CBI Head Quarters, Delhi before SHO, PS Nai Mandi, Mujaffar Nagar, UP, Constable Lokender, Munshi of the said SHO, Praveen Jain and Ms. Sharda Jain by fabricating a fake CBI notice allegedly issued from CBI Head Quarters, New Delhi in the name of Praveen Jain and used it as a genuine one and served it to Sh. Paveen Jain.

5. It is specifically alleged that on 30.12.2023 applicant/accused Sunil Yadav had gone to Naya Mandi, Police Station, Distt. Mujjafar Nagar, UP, and introduced himself as a Constable from CBI. It is alleged that he requested the assistance of the local police to serve a notice allegedly issued from CBI, Head Office, Delhi against one Sh. Praveen Jain, a private businessman and a resident of 177, Sangam Vihar, PS Naya Mandi, Mujjafar Nagar, UP for appearing before the IO of FIR No. RC DAI2023A0045 U/s. 120B IPC r/w Section 7 of PC Act

1988 for the purpose of investigation. It is alleged that, the Munshi of SHO deputed one constable, of that PS, namely Sh. Lokender to accompany the accused Sunil Yadav, for which GD entry No. 26 dated 30.12.2023 at 12.48 hrs. was made at PS Naya Mandi.

6. It is further alleged that after reaching the residence of Sh. Praveen Jain, the applicant/accused Sunil Yadav introduced himself as the Constable from CBI, HO, New Delhi and told him that he was required to attend the Head Office, CBI to join the investigation of the said case of CBI. It is alleged that A2 Lalit and A3 Farooq also conspired with the applicant/accused Sunil Yadav for commission of the alleged offences. It is also alleged that pursuant to their conspiracy, A3 Farooq telephonically demanded Rs. 20 lakhs from Sharda Jain w/o Sh. Praveen Jain to settle the CBI case.

**ARGUMENTS ON BEHALF OF APPLICANT/ACCUSED
SUNIL YADAV:**

7. It was submitted by Ld. Counsels for the applicant/accused Sunil Yadav that the applicant/accused has been languishing in Judicial Custody since 15.01.2024 and no purpose will be served by keeping him any longer in judicial custody. Ld. counsels for applicant/accused also argued that bail

is the rule and jail is an exception and applicant/accused should be given benefit of bail to properly defend his case. It was also submitted by Ld. Counsels for the applicant/accused Sunil Yadav that the applicant/accused Sunil Yadav has been falsely implicated by higher officials and is a victim of circumstances.

8. Ld. Counsels for applicant/accused argued that investigation is complete as the chargesheet has been filed and now nothing is to be recovered from the applicant/accused. It was also argued by ld. Counsels for the applicant/accused that the applicant/accused undertakes to abide by the terms and conditions imposed upon him at the time of grant of bail. Further, Ld. Counsels for applicant/accused submitted that in case of further investigation, the applicant/accused will join the investigation, if directed to do so. In view of the aforesaid submissions made, ld. Counsels for the applicant/accused requested that bail be granted to the applicant/accused.

ARGUMENTS OF CBI:

9. Ld. PP for CBI submitted that the role of the applicant/accused Sunil Yadav is prima-facie apparent from the irrefutable evidence collected which include oral, documentary and scientific evidence. Ld. PP for CBI argued that from the said evidence collected, it is well apparent that the applicant/accused

attempted to extort money from one Sh. Praveen Jain by impersonating himself as a CBI official from CBI Headquarters, Delhi and by fabricating a fake CBI notice, allegedly issued by CBI, Head Quarter, New Delhi in the name of Praveen Jain and using it as a genuine one. Further, Id. PP for CBI submitted that the CCTV footage seized during investigation shows that the applicant/accused Sunil Yadav is seen visiting PS – Nai Mandi, District Muzaffarnagar on 30.12.2023 and impersonating himself as a CBI official. Id. PP for CBI argued that various RPSF officials identified the applicant/accused Sunil Yadav in the CCTV footage and the SHO of PS Nai Mandi and other officers also identified the applicant/accused Sunil Yadav in the CCTV footage. Id. PP for CBI argued that the applicant/accused Sunil Yadav also created a false alibi by falsification of government records, as he was not present in his office at RPSF on 30.12.2023, but had put his signature in the attendance register either before or after 30.12.2023. Id. PP for CBI submitted that the fake notices were recovered from the premises of applicant/accused Sunil Yadav on the basis of his disclosure. Id. PP for CBI argued that in view of aforesaid facts and circumstances, the applicant/accused Sunil Yadav is not entitled for bail as he has committed serious offences intentionally.

10. Id. PP for CBI argued that there is likelihood that the applicant/accused Sunil Yadav may try to influence witnesses

and tamper with the evidence, considering he is a uniformed officer. In view of the aforesaid submissions, ld. PP for CBI strongly opposed to the bail application filed by the applicant/accused Sunil Yadav.

ANALYSIS AND FINDINGS:

11. I have heard the submissions of the parties and perused the record carefully.

12. In *Anil Kumar vs. State (NCT of Delhi)*, (2018) 12 SCC 129, it is observed and held by the Hon'ble Apex Court that while granting bail, the relevant considerations are:

- (i) nature of seriousness of the offence;
- (ii) character of the evidence and circumstances which are peculiar to the accused;
- (iii) likelihood of the accused fleeing from justice;
- (iv) the impact that his release may make on the prosecution witnesses, its impact on the society; and
- (v) likelihood of his tampering.

13. It was also held that the aforesaid list is not exhaustive and there are no hard-and-fast rules regarding grant or refusal of bail. It was held that each case is to be considered on its own merits and courts are to exercise discretion judiciously.

14. The Hon'ble Supreme Court of India in a case titled ***Satender Kumar Antil vs CBI 2022 SCC OnLine SC 825*** emphasized the principle that bail is the rule and jail is the exception. It emphasized the role of a court in upholding and protecting the rights of life and liberty. The relevant paragraphs in this regard is reproduced below:

“11. The principle that bail is the rule and jail is the exception has been well recognized through the repetitive pronouncement of this court. This again is on the touchstone of the Article 21 of the constitution of India...”

ROLE OF THE COURT

67. The rate of conviction in criminal cases in India is abysmally low. It appears to us that this factor weighs on the mind of the Court while deciding the bail applications in a negative sense. Courts tend to think that the possibility of a conviction being nearer to rarity, bail applications will have to be decided strictly, contrary to legal principles. We cannot mix up consideration of a bail application, which is not punitive in nature with that of a possible adjudication by way of trial. On the contrary, an ultimate acquittal with continued custody would be a case of grave injustice.

68. Criminal courts in general with the trial court in particular are the guardian angels of liberty. Liberty, as embedded in the Code, has to be preserved, protected, and enforced by the Criminal Courts. Any conscious failure by the Criminal Courts would constitute an affront to liberty. It is the pious duty of the Criminal Court to zealously guard and keep a consistent vision in safeguarding the constitutional values and ethos. A criminal court must uphold the

constitutional thrust with responsibility mandated on them by acting akin to a high priest...”.

15. It is pertinent to note that investigation is complete as chargesheet has been filed and recovery of all documents including the alleged fake notice of CBI and alleged CCTV footage of PS Nai Mandi, Distt. Muzaffarnagar is stated to be already effected. Further, there is no plea on behalf of CBI for requirement of applicant/accused Sunil Yadav for custodial interrogation. Moreover, the other co-accused namely, Lalit and Farooq have not been arrested in this case. No purpose would be served in keeping the applicant/accused Sunil Yadav in custody as he has already been in judicial custody since 15.01.2024. Further, the applicant/accused Sunil Yadav does not have previous conviction/involvement record and it is a matter of record that this is his first involvement in a criminal case.

16. In view of the aforesaid facts and circumstances and considering the settled position of law that “bail is the rule and jail is the exception” and the aforesaid judgments, I deem it fit to grant bail to the applicant/accused Sunil Yadav. Hence, the applicant/accused is admitted to bail upon furnishing bail bond in the sum of Rs. 50,000/- alongwith one surety in the like amount subject to the following conditions:-

- i) Applicant/accused Sunil Yadav shall not indulge in any offence of the same nature;
- ii) Applicant/accused shall not threat, intimidate or influence the witnesses or tamper with the evidence in any manner;
- iii) The applicant/accused shall not leave India without prior permission of this court.
- iv) The applicant/accused will regularly appear before the court and join further investigation, if required so.

17. Application stands disposed of accordingly.

18. Nothing stated herein shall tantamount to an opinion of the court on the merits of the case.

19. Copy of this order be given dasti to the ld. Counsel for the applicant/accused and ld. PP for CBI.

20. Copy of this order be sent to the concerned Jail Supdt. for information.

(Sonam Singh-I)
CMM/RADC/New Delhi
20.04.2024