

## Shashi Bala Sharma Vs State of U.P.and Another

**Court:** Allahabad High Court

**Date of Decision:** May 28, 2010

**Hon'ble Judges:** S.K.GUPTA, J

**Final Decision:** Allowed

### Judgement

Shashi Kant Gupta, J.

Heard the learned counsel for the applicant, Mr. Anurag Khanna, learned counsel appearing on behalf of the C.B.I

and learned AGA and perused the record.

2. As per prosecution story, Pradeep Kapoor while posted as Special Assistant at UCO Bank, Civil Lines, Moradabad Branch during the year

2007/2008 by abusing his official position, in collusion with the applicant misappropriated a total sum of Rs. 97,83,652/ which was held by the

Bank in the Bank's own Account and in the accounts of several Account holders and while doing so he was aided and abetted by his family

members and thereby defrauded the U.C.O. Bank to the extent of Rs. 97,83,652.00/

3. It is submitted by the learned counsel for the applicant that the applicant is innocent and has not committed the alleged offence and has been

falsely implicated. He further submits that the applicant was not named in the FIR. and in the F.I.R. there is no whisper at all of any allegations

against the applicant regarding misappropriation of any money by committing any fraud or forgery in any of the Accounts of the Bank concerned.

He further submits that the applicant is a 55 years old and handicapped lady and is also a heart patient. He further submits that the applicant has

been working in the UCO Bank since last 30 years without there being any complaint from any where whatsoever. He further submits that the co

accused Pradeep Kapoor is solely responsible for the alleged fraud and forgery, who however, out of the alleged misappropriated amount, has

deposited Rs. 61 lacs in the Bank. It is further submitted that the co accused Pradeep Kapoor by means of a letter, a copy of which has been

annexed as annexure no. 3 to the affidavit filed in support of the bail applicant, has also confessed his guilt very clearly stating therein that he was

solely responsible for the fraudulent transactions in various Accounts of the account holders of the concerned Bank. He further submits that the

allegation against the applicant, as per the charge sheet submitted by the I.O., is that she had passed the majority of the forged vouchers prepared

by the co accused Pradeep Kapoor . He further submits that the applicant had given Rs. 8 lacs as a loan to the co accused, out of which he

returned Rs. 4,89,000/ to the applicant. In support of his contention he further referred to the statement of Sri Naresh Kumar, who was working

as Field Vigilance Officer, UCO Bank, Head Office,10BTM, Sarani, Kolkata.

4 It was further submitted that the afore mentioned statement clearly goes to show that the applicant was not responsible for the alleged cheating

committed by the co accused because the vouchers were passed by the applicant in the routine manner. Referring to para5 of the supplementary

affidavit filed in support of the bail application, he further submits that, in fact, the co accused Pradeep Kapoor, is the main accused and out of the

money allegedly misappropriated by him, he has deposited a sum of Rs. 61 lacs in the Bank. He further submits that, in fact, no such forgery or

manipulations, as alleged by the prosecution, was ever committed by the applicant nor is there any whisper to that effect in the F.I.R. and therefore

she can not be fastened with any liability as alleged by the prosecution. He further submits that the applicant has neither cheated the Bank in any

way nor committed any forgery even then has been falsely implicated only with a view to harass and spoil her service career.

5. Referring to Annexure no. 4 to the affidavit filed in support of the bail application he further submitted that the applicant and her husband are

having a joint Account (No.13043 ) in UCO Bank since long and the applicant had transferred Rs. 5,95,000/during the period from 13.5.2004

10.8.2004 through her Account to the Account of co accused Pradeep Kapoor and his family members for the purpose of purchasing shares

because the wife of co accused Pradeep Kapoor is a share broker. He further submitted that the sister in law ( Bhabhi) of the co accused Pradeep

Kapoor namely Rupali Kapoor is also a share broker and the applicant and his husband had purchased and sold the shares for Rs. 5,40,000/

between 5.10.2007 and 31.1.2008.

6. It is further submitted that out of the alleged misappropriate amount of Rs. 97,83,652.00/ only Rs. 5 lacs is said to have been credited in the

Account of the applicant from the Account of co accused Pradeep Kapoor and Poonam Kapoor. It is further submitted that the bank transaction

of the applicant clearly shows that she was carrying on the share business with the co accused and his other family members since long and she had

also given loan of Rs. 8 lacs to them and out of the said amount Rs. 5 lacs was transferred in the Accounts of the applicant.

7. It is further submitted that the remaining service period of the applicant is only four years and eight months and as per relevant record about Rs.,

5,95,000/ is deposited in the P.P.F. Account of the applicant and by virtue of leave encashment a sum of Rs. 25,00,000/ and towards gratuity Rs.

4,00,000/, totalling a sum of about Rs. 30,00,000/ lacs, are there towards her retiral benefits. He further submits that the applicant being a lady is

entitled to the benefit of the provisions contained under section 437 Cr.P.C. He further submits that some of the co accused have already been

released on bail. He further submits that the case of the applicant is distinguishable from the case of the co accused Pradeep Kapoor. Against

whom there is a direct evidence of misappropriation of huge amount of Bank's money. He further submits that the applicant has got no criminal

history to her credit and there are no chances of her fleeing away from the judicial process or tampering with the prosecution evidence, and is in jail

since 16.12.2009.

8. Per contra, learned counsel for the C.B.I submitted that though the applicant was not named in the FIR but her name came to light during

investigation and there is cogent evidence against the applicant which specifically indicates her direct involvement in the said forgery. In support of

his contention, he has referred to the signatures of the applicant on the vouchers signed/issued by the co accused Pradeep Kapoor. It is further

submitted that the applicant was authorised to pass the vouchers upto the maximum limit of Rs. 5 lacs. However, the applicant deliberately passed

the Vouchers beyond the prescribed limit by entering into criminal conspiracy with the coaccused for illegal gains. He further submits that the

applicant, by passing the vouchers and authorizing several illegal transactions, had facilitated the main accused Pradeep Kapoor to commit fraud

with the Bank. He further submits that passing of the fraudulent vouchers by the applicant coupled with the evidence of transfer of Rs. 5 lacs into

her Accounts from the Account of Pradeep Kapoor and the use of her password in the fraudulent transactions establishes her involvement in the

crime. It is further submitted that there is no official intimation regarding the alleged loan given by the applicant to the main accused pradeep

Kapoor and the Bank transactions of her Account in the year 2004 cannot be linked to the instant movement of the defrauded amount into her

account. It is further submitted that the age of the applicant and her long period of service has got no relation to her conduct and role in the present

case. It is also submitted that the letter referred to by the applicant of the main accused Pradeep Kapoor is vague and of general nature . It is

further submitted that since the applicant has misappropriated substantial amount by committing fraud and cheating with the Bank, she does not

deserve any indulgence and the bail application is liable to be rejected outrightly.

9. In view of the facts and circumstances of the case and taking into consideration the submissions made by the learned counsel for the respective

parties and also keeping in view nature and gravity of the offence, no case for bail is made out. The prayer for bail is declined and the bail

application is rejected at this stage.

10. However, the court below is directed to expedite the trial and conclude the same expeditiously on production of a certified copy of this order,

keeping in view the provisions of Section 309 Cr.P.C.