

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19510 of 2023

Applicant :- Mohammad Arif

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Vikram Singh, Om Narayan Pandey, Rajneesh Kumar Singh, Rohit Nandan Shukla, Vinod Kumar Bhartiya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. The instant bail application is listed today before this Court by the order of Hon'ble the Chief Justice dated 20.08.2023.
2. Heard Sri Abhishek Saroj holding brief of Sri Vinod Kumar Bhartiya, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 498 of 2022, under Sections 419, 420, 467, 468, 471 IPC, Police Station- Sadar Bazar, District- Shanjahanpur, during pendency of the trial in the court below.
4. FIR of the present case was lodged against co-accused Kamaran Husain Khan and others and according to the FIR, the nominated co-accused Kamaran Husan Khan executed a sale deed of the property of the informant on the basis of his forged power of attorney.
5. Learned counsel for the applicant submitted that applicant was not named in the FIR and during investigation when it was revealed that principal accused Kamaran Husain Khan executed forged power of attorney of the informant by using his photographs then he was made accused in the present matter.
6. He further submitted that applicant is having no concern with the alleged forged power of attorney and he was not even aware that co-accused Kamaran used his photographs. He further submitted that co-accused Kamaran and applicant are the resident of the same locality, therefore, it appears that anyhow co-accused Kamaran procured the photographs of the applicant and misused

the same.

7. He further submitted that applicant is not having any criminal history and he is in jail since 28.07.2022 i.e. for last almost one and half years.

8. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

9. I have heard learned counsel for the parties and perused the record of the case.

10. Applicant was not named in the FIR and during investigation, when it was found that his photographs were used by principal accused Kamaran Husain Khan while executing forged power of attorney of the informant then he was made accused in the present matter and he was neither beneficiary nor there is any evidence, which can show that he was also involved in the crime alongwith co-accused Kamaran. Further, as applicant is the resident of the same locality where co-accused Kamaran resided, therefore, defence taken by the applicant cannot be ruled out at this stage.

11. Further, applicant is not having any criminal history and he is in jail since 28.07.2022 i.e. for last almost one and half years.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

13. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

14. Let the applicant- **Mohammad Arif** be released on bail in the aforesaid case on 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 shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social

activity.

15. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

16. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 6.12.2023

KK Patel