

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36002 of 2023

Applicant :- Kaptan Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjani Kumar Shahwal

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Rejoinder affidavit to the counter affidavit filed by learned AGA, is taken on record.
2. Heard learned Counsel for the applicant, learned A.G.A. for the State and perused the record.
3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 541 of 2022, under Sections 420, 467, 468, 471, 120B I.P.C., Police Station- Atrauli, District- Aligarh during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant has not executed any sale deed in favour of co-accused Yogesh Kumar. The applicant never appeared before the Sub Registrar nor affixed his signature on the sale deed. No amount has been credited in the account of the applicant. The applicant is not the beneficiary of the illicit transaction. It is next contended that informant has filed a Civil Suit No. 207 of 2022 (Mulayam Singh vs. Yogesh Kumar) in the court of Civil Judge, Junior Division, Aligarh, which is still pending before the competent court. At present the disputed land is in possession of the informant. The applicant does not have any criminal history. The applicant is in jail since 24.5.2023. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that at present there is no substantive evidence against the applicant. No amount has been credited in the account of the applicant. The applicant is not the beneficiary of the illicit transaction. The case is primarily of civil in nature. The applicant has no criminal antecedents. Further the

applicant has presently remained confined for almost five months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Kaptan Singh** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 17.10.2023
S.S.