

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 37220 of 2023

**Applicant :-** Mukesh Kumar

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Munendra Nath Chaubey

**Counsel for Opposite Party :-** G.A., Ali Bin Saif

**Hon'ble Vivek Varma, J.**

1. Heard Ms. Manisha Chaturvedi, Advocate holding brief of Sri M.N. Chaubey, learned counsel for the applicant, learned A.G.A. for the State and Sri Ali Bin Saif, counsel for the informant. Perused the record.

2. 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. 14 of 2023, under Sections 420, 467, 468, 471, 504 I.P.C., Police Station- Sadar Bazar, District- Mathura during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant along with co-accused Vinod Kumar and Smt. Khajano Devi executed a sale deed in the favour of the informant on 20.5.2022. Pursuant to the said sale deed the informant was put in possession. Counsel for the applicant contends that after the execution of the sale deed it transpires that co-accused Vinod Kumar had executed a sale deed in favour of one Kishan Singh with regard to his share on 11.12.2017. The applicant had no knowledge of the execution of the earlier sale deed by the co-accused. The applicant was not the beneficiary of the alleged sale deed dated 11.12.2017. The role of the applicant is clearly distinguishable from that of Vinod Kumar. It is further contended that thereafter the applicant along with other co-accused have entered into a settlement with the informant. The said settlement is annexed as Annexure-8 to the bail application. Counsel for the applicant further contended that the applicant had no intention to cheat the informant nor he had forged any documents. The applicant does not have any criminal history. The applicant is in jail since 14.5.2023. In case, he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and counsel for the informant has opposed the prayer for bail but could not satisfactorily dispute the aforesaid

submissions from the record.

5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the earlier sale deed was executed by co-accused Vinod Kumar in favour of third party. The role of the applicant is clearly distinguishable from that of Vinod Kumar. The applicant was not the beneficiary of the sale deed dated 11.12.2017. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than 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.

6. Let the applicant, **Mukesh Kumar** 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.

7. 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 :- 16.10.2023**

S.S.