

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38747 of 2023

Applicant :- Ajay Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- K.K.Rao, Naresh Kumar Pandey

Counsel for Opposite Party :- G.A., Jainendra Kumar Pandey, Vipin Chandra Pandey

Hon'ble Umesh Chandra Sharma, J.

1. Heard learned counsel for the applicant, learned AGA for the State, learned counsel for the informant who has filed counter affidavit on behalf of the informant which is taken on record and perused the record.

2. By means of this bail application, applicant seeks bail in Case Crime No.400 of 2021, under Sections 420, 323, 504, 506, 427, 423, 465, 466, 468, 471 IPC, Police Station Sarai Akil, District Kaushambi, during the pendency of trial.

3. In this case there is dispute regarding date of death of the deceased Jagroop as to whether he died on 17.01.2021 or on 22.01.2021. There is another dispute regarding execution of sale deed as to whether the deceased had executed a registered sale deed on 22.01.2021 or not.

4. It is submitted by learned counsel for the applicant that since the informant is not the beneficiary or is a person or order in succession, therefore, he has no locus or cause of action to lodge the FIR. It is further contended that the issues may be decided by the Revenue Court or Civil Court. *Prima facie*, it does not appear that the informant has any locus to cause of action or lodge the FIR.

5. It is further contended that the criminal history of the applicant has been explained in paragraph-28 of the affidavit filed in support of the bail application. The applicant is languishing in jail since 07.06.2023. There is no likelihood of his abscondence or tampering with the evidence. In case the applicant is released on bail, he will not misuse the said liberty.

6. The prayer for bail has been vehemently opposed by learned AGA. However, the aforesaid factual aspects could not be disputed.

7. Considering the facts, circumstances and the submissions made but without commenting on the merits of the case, this Court is of opinion that the applicant has made out a case for grant of bail. Accordingly, the bail application is allowed.

8. Let the applicant - **Ajay Kumar**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

9. 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 :- 13.10.2023

Shahroz