

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39651 of 2023

Applicant :- Durgpal

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Dwivedi

Counsel for Opposite Party :- G.A., Prashant Kumar Singh

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Ashish Dwivedi, learned counsel for the applicant, Sri Prashant Kumar Singh, learned counsel for first informant / respondent no. 2, learned A.G.A for the State-opposite party and perused the record.
2. The instant bail application, under Section 439 Cr.P.C of the Code of Criminal Procedure, 1973, has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 519 of 2022, under Sections 420, 467, 468, 471 I.P.C, Police Station- Bilsa, District Budaun, during the pendency of trial.
3. The learned counsel for the applicant submitted that the applicant is innocent person and he has falsely been implicated in the present case by the informant. The applicant is a farmer and has no criminal history to his credit except the present case.
4. From perusal of the records, it has been transpired that the land-in-question was situated at Kheda Purvi, Tehsil & Police Station Bilsa, District Budaun. The informant is also resident of same village, but one Durga Prasad resident of village Barategdar, Budaun was of the owner of property-in-question, who used to live in Haryana State and died in the year 1991 and after his death by way of inheritance as registered will deed, his heirs has become

the real owner of the property-in-question. The applicant - Durga Pal, showing himself to be Durga Prasad, the real owner of the property-in-question sold the same for a sum of Rs.1,20,000/- (Rs.one lac twenty thousand).

5. From the above, it is very much clear that a fraud has been played by the applicant, but no duty imposed under Section 55 of the Transfer of Property Act i.e. which is known as *caveat emptor* has been performed by the informant.

6. Today, the learned counsel for the applicant has filed supplementary affidavit, which is showing that the applicant - accused has paralyzed and he has been referred for his treatment to the Government Medical College, Budaun. The amount is not too much. The applicant has not played big fraud. The case is triable by the learned Magistrate, hence the case is liable to be allowed. Learned counsel for the applicants has lastly contended that the applicant is in jail since **26.06.2023**. In case, he is enlarged on bail, he will not misuse the said liberty.

7. The prosecution has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

8. Having regard to the submissions made but without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

9. Let the applicant - **Durgpal**, 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.

10. 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 :- 8.11.2023

Vinod.