

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39465 of 2023

Applicant :- Mohd. Irfan Hasan

Opposite Party :- State of U.P.

Counsel for Applicant :- Yasir Ahmed

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Learned AGA for the State submits that the instructions have been received and he has no objection in case the bail application is decided on merits

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. 404 of 2023, under Sections 147, 148, 323, 386, 504, 506 I.P.C., Police Station- Dhoomanganj, District- Allahabad during pendency of the trial.

5. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant is one of the director of the Himalayaview Infrazone Private Limited. The said company is engaged in sale and purchase of the plots. The applicant has not threatened the informant. No sale deed has been executed by the informant in favour of the applicant or in favour of the company. In fact, the company has paid Rs.5 lakhs to the informant and Rs.5 lakhs to the brother of the informant Ashiqurrahman for purchase of plots situated at Kasari Masari, Tehsil and Sadar, Prayagraj. The applicant/company itself has been cheated by the informant. It is further contended that no offence under Section 386 I.P.C. is made out against the applicant. In this regard, reliance has been placed upon the judgment of this court dated 2.8.2023 passed in **Criminal Misc. Bail Application No. 30337 of 2023 (Mohammad Ubaid vs. State of U.P.)**. In order to harass the applicant and not to return the amount paid by the company, the instant prosecution has been instituted. The applicant does not have any criminal history. The applicant is in jail since 5.8.2023. In case he is enlarged on bail, he will not misuse the said liberty.

6. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having heard counsel for the parties and having perused the record, this Court prima facie finds that no sale deed has been executed by the informant in favour of the company. In fact the company has transferred money in the account of the informant. At this stage there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than two 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.

8. Let the applicant, **Mohd. Irfan Hasan** 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.

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 :- 30.10.2023
S.S.