

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39385 of 2023

Applicant :- Babita Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohit Singh, Ravi Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by the counsel for the applicant, 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. 1379 of 2018, under Sections 420, 506 I.P.C., Police Station- Vijaynagar, District- Ghaziabad during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. In the year 2012 M/s NAC Trading Company, whose proprietor Mr. Abhinav Singh Chauhan, applied for cash credit facility from Jammu & Kashmir Bank for an amount of Rs.12.50 lakhs and the same was sanctioned on 24.1.2012. In the said transaction, the property in dispute was mortgaged and the applicant was one of the guarantor for the aforesaid cash credit facility. It is contended, that thereafter, the property in dispute which belongs to the company namely, Lakshmipati Buildcon Private Limited, was sold by another director Ramesh Chandra Gupta, who is the husband of the applicant, unilaterally without informing the applicant, without any resolution, by the company. The sale deed was executed on 26.2.2023 in favour of the informant. The applicant had no information of execution of the sale deed. As such no offence is made out against the applicant. It is further contended that the company was not arrayed as an accused in the FIR nor the charge-sheet has been submitted against the company. The informant is still in possession of the disputed property. It is further contended that the informant also filed a civil suit numbered as Suit No. 678 of 2018 (Sri Vimal Dhingara vs. Ramesh Chandra Gupta and others) before the Court of Civil Judge (Sr. Div.), Ghaziabad. The said suit is still pending consideration before the competent court.

Further, to harass the applicant the instant prosecution has been instituted. The applicant is a lady and is entitled for protection under Section 437(2) Cr.P.C. The case of the applicant is clearly distinguishable from that of other co-accused Ramesh Chandra Gupta. The criminal history of the applicant has been explained in para 42 of the bail application. The applicant is in jail since 31.7.2023. In case she is enlarged on bail, she 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 the sale deed was executed by the other co-accused. At this stage there is no substantive evidence against the applicant. Further the applicant is a lady and has presently remained confined for almost three 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, **Babita Gupta** involved in the aforesaid case be released on bail on her furnishing a personal bond and two **heavy** 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;
- iv. the applicant shall not leave the country without the leave of 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 :- 30.10.2023
S.S.