

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41672 of 2023

Applicant :- Jitendra Pal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghuvansh Misra, Kandarp Srivastava

Counsel for Opposite Party :- G.A., Kartikeya Saran, Raj Kumar Mishra

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri V.P. Srivastav, learned senior advocate assisted by Sri Raghuvansh Misra and Sri Kandarp Srivastava, learned counsel for the applicant, Sri Pankaj Kumar Tripathi, learned AGA for the State, Sri Gopal Swarup Chaturvedi, learned senior advocate assisted by Sri Kartikeya Saran and Sri Raj Kumar Mishra for the informant and perused the record.

2. By means of this bail application, applicant seeks bail in Case Crime No.47 of 2023, under Sections 420, 467, 468, 471 IPC, Police Station New Agra, District Agra, during the pendency of trial.

3. The dispute in this matter relates to documentary evidences for appointment of the Vice President, Balwant Educational Society, Khandari Firm, Agra by forging an order as passed by the then District Judge, Agra for which there is no documentary evidence on the face of record that the alleged order of the then District Judge is forged and fabricated.

4. Virtually the first informant is doing financial embezzlement in the alleged society and the applicant was complaining regarding his financial misappropriations. The dispute regarding committee of management is pending since long. On the basis

of illegal appointments, the constituted committee of management made several amendments in the Rules and Regulations of the society without prior approval of the State Government. The Registrar and Sub-Registrar of the Firm Society and Chits rejected the amendments and the order has been stayed by this Court. The State Government has also rejected the amendments of the bye-laws. Special Appeal Nos.1747 of 2011 and 1748 of 2011 were dismissed on 26.04.2016. The inquiry committee has submitted its report of 17.12.2022 and the appointment of Anirudh Pal Singh as Vice President has been declared null and void. The orders dated 02.12.2022 and 20.02.2023 passed by the District Judge, Agra has been challenged in Writ Petition No.18418 of 2023 and this Court vide order dated 25.07.2023 has restrained Anirudh Pal Singh to work as Vice President of the society. No report regarding forgery and fabrication of the order dated 30.08.2011 has been obtained from the FSL except the report of the then District Judge (former Judge of this High Court).

5. The signatures of the then President were different on the different papers. The investigating officer (IO) has not recorded the statement of the signatory. On the similar and identical facts earlier an FIR at Crime No.154 of 2013, under Sections 420, 467, 468 and 471 IPC had been lodged on 09.12.2013 against the applicant and four others in which the IO found no cogent and concrete evidence against the applicant and three others and has filed charge-sheet under Section 406 IPC only against Babu Lal Gupta. According to the informant he had no knowledge of the order dated 30.08.2011 prior to the FIR but in Civil Misc. Writ Petition Nos.55196 of 2016 and 10388 of 2019 filed by the applicant, the first informant had been informed about the aforesaid order but the FIR has been lodged in the year of 2023. The inquiry committee has found the applicant quite innocent

and has not found any adverse evidence against him even then the FIR has been lodged.

6. It is submitted by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. There is inordinate delay in lodging the FIR as the alleged order was passed in the year 2011 whereas the FIR has been lodged in the year 2023 for which no plausible explanation has been given from the side of the informant. It is also contended that the applicant is a senior citizen who is aged about 75 years with leg fracture. Learned counsel for the applicant further contends that the instant matter is purely of civil nature in which several civil litigations have been contested by the parties. It is next contended that in view of the facts and circumstances of the case, no offence as alleged in this case is made out against the applicant. It is further contended that there is no previous criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 26.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

7. Learned AGA as well as learned counsel for the informant have vehemently opposed the prayer for bail and contended that the applicant has committed serious crime as by playing fraud and forging an order as passed by the then District Judge he claimed to be appointed as Vice President of the alleged society. It is also contended by the learned AGA that there criminal history against the applicant at Case Crime No.154 of 2013, under Sections 420, 467, 468, 471 IPC, Police Station Hari Parwat, District Agra but the same has not been explained by the applicant which was contradicted by the learned counsel for the applicant that in the said case final report has been filed which was accepted by the learned Magistrate and the charge-

sheet has been submitted only against one Babu Lal Gupta.

8. Having regard to the facts, circumstances and the submissions advanced on behalf of the counsel for the parties but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

9. Let the applicant - **Jitendra Pal Singh**, 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.

11. It is made clear that this order will not affect the merit of the case in any manner.

Order Date :- 3.11.2023

Shahroz