

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42264 of 2023

Applicant :- Satendra Pal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Sengar

Counsel for Opposite Party :- G.A., Poonam Dwivedi, Rajan Prasad Dwivedi

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Ajay Sengar, learned counsel for the applicant, learned AGA for the State, Sri Rajan Prasad Dwivedi, learned counsel for the informant and perused the record.

2. By means of this bail application, applicant seeks bail in Case Crime No.0102 of 2023, under Sections 419, 420, 465, 467, 468, 471, 120B, 504, 506 IPC, Police Station Rampura, District Jalaun, during the pendency of trial.

3. From perusal of the record it transpires that the informant Virendra Singh was granted *patta* of the property in question in the year of 2004 for agriculture. Though he was *bhumidhar* with non-transferable rights of the property in question but he sold the said property in the year 2007 to Nathu Ram and the name of the vendee, Nathu Ram could not be mutated as the lessor had no right to transfer the *patta* land. Later on by operation of law, Virendra Singh became *bhumidhar* with transferable rights on 22.03.2016. Before acquiring the absolute *bhumidhari* rights by operation of law, Virendra Singh sold the property in question to six different persons including the present applicant, Satendra Pal Singh. It is very much clear from the record that on the date of execution of

sale deed i.e. 06.06.2023 Nathu Ram was not the recorded tenure holder of the property in dispute. His name could be recorded only on 21.06.2023 after execution of the impugned sale deed. Since the transaction was between Virendra Singh, the lessee and Nathu Ram, the informant was not in accordance with law as in the year 2007, the transferor Virendra Singh had no right to transfer the property being *bhumidhar* with non-transferable rights, therefore, the transferor Virendra Singh and the informant Nathu Ram were at fault. It was also the duty of the informant Nathu Ram to inspect the relevant record and to get a certificate for 12 years inspection and to act in accordance with the Section 55 of the Transfer of Property Act, 1882. It was the bounden duty of the transferee to examine the right, title and interest of the vendor. Therefore, there were laches on the part of the informant Nathu Ram. Only it can be argued that by operation of Section 43 of the Transfer of Property Act, the transaction between Virendra Singh and Nathu Ram can be said to be a valid transaction when Virendra Singh became *bhumidhar* with transferable rights. It has also to be mentioned that there is no clear and cogent evidence on record that the informant Nathu Ram had obtained the physical possession of the property in question in furtherance of the transaction held in the year 2007.

4. Learned counsel for the applicant contended that virtually it is a case of civil nature for which the applicant should not be tried as criminal. There is no previous criminal antecedents on the part of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 17.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA has vehemently opposed the bail application but could not dispute the aforesaid factual aspects of the case and the submission advanced by the counsel for the applicant.

6. 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.

7. Let the applicant - **Satendra 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.

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 :- 1.11.2023

Shahroz