

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44483 of 2023

Applicant :- Net Ram

Opposite Party :- State of U.P.

Counsel for Applicant :- Krishna Kumar Singh

Counsel for Opposite Party :- G.A., Sadaful Islam Jafri

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State-opposite party and Mr. Sadaful Islam Jafri, learned counsel for the informant.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 91 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C., Police Station Hajrat Nagar Gadhi, District Sambhal during the pendency of the trial.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant and the informant are real brothers. There is a dispute between the parties with regard to a property. The applicant has instituted Suit No. 67 of 2023, Netram Singh v. Ashok Kumar and another, in the Court of the Civil Judge (Junior Division), Sambhal at Chandausi for restraining the informant and his wife from interfering in the peaceful possession of the said property. The applicant earlier lodged a first information report also against the informant and his wife on 21.04.2022 registered at Case Crime No. 75 of 2022, under Sections 420, 406, 506 I.P.C., Police Station Hazratnagar Garhi, District Sambhal. The instant prosecution has been instituted only to harass the applicant and get the cases filed by him compromised. The applicant has not forged any documents. At present there is no cogent evidence against the applicant. The applicant is in jail since 18.08.2023 having no criminal history and if he is released on bail, he will not misuse the said liberty.

4. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant and the informant are real brothers and there is a dispute between the parties with regard to ancestral property. The applicant has filed a civil suit and also lodged an F.I.R. against the informant and his wife. At present there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than two months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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 delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- Net Ram, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of 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; and,
- (iii) shall not pressurize the prosecution witnesses.

7. 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 :- 6.11.2023

SKT/-