

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45852 of 2023

Applicant :- Anwar Shahjad

Opposite Party :- State of U.P.

Counsel for Applicant :- Upendra Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Heard Sri Upendra Upadhyay, learned counsel for the applicant as well as Sri P. C. Srivastava, learned Additional Advocate General along with learned A.G.A. for the State and perused the entire record.

2. The present bail application has been filed by the applicant in case crime No. 400 of 2023, under Sections-386, 342, 420, 120-B IPC, police station-Kotwali, District-Ghazipur, with the prayer to enlarge the applicant on bail.

3. It has been argued by learned counsel for the applicant that the applicant / accused is innocent and he has been falsely implicated in this case. The alleged incident has been shown of 22.8.2023, whereby a registered sale-deed was executed by the informant in favour of co-accused Abbas and that at that time no complaint was made. After about thirteen years, first information report of this case was lodged on 12.8.2023, alleging that the applicant and co-accused persons have got registered the sale-deed by extending threats to the informant and that the entire consideration amount was also not paid. Learned counsel for the applicant submitted that the said land was transferred by the informant by a registered sale-deed and a total amount of Rs. 20,000,00/- (Twenty Lacs Only) was transferred into the bank account of informant and the

remaining amount was paid in cash and thus, the allegation of informant that the said sale-deed was executed was got executed by extending threats and that amount was not paid, is wholly false and improbable. Learned counsel further submitted that in the year, 2020 the informant has filed a civil suit against co-accused Abbas vide Original Suit No. 308 of 2020 before the Civil Judge (Senior Division), Ghazipur regarding same sale-deed, wherein, his main allegation is that the said land was sold against a consideration of Rs. 25,00,000/- (Twenty Five Lacs Only) but out of that amount, Rs. 4,50,000/- (Four Lacs Fifty Thousands) were not paid to him. In the said civil suit there are no such allegations that the said sale-deed was got executed by extending threats. The said civil suit is pending before the Civil Court. It was also pointed out that the applicant is not beneficiary. The said sale-deed was executed in favour of co-accused Abbas Ansari. Criminal history of fourteen cases has been shown against the applicant and in one of the case, he has already been acquitted and in remaining cases, he is already on bail and that recently the applicant has been granted bail by this Court in a case registered under the provisions of Gangster Act vide order dated 29.8.2023 passed in Criminal Misc. Bail Application No. 30835 of 2023. Learned counsel also submitted that the case is triable by the Court of Magistrate. Lastly, it was submitted that the applicant is in judicial custody since 12.9.2023 and that in case, applicant is enlarged on bail, the applicant will not misuse the liberty of bail.

4. Sri P. C. Srivastava, learned Additional Advocate General strongly opposed the prayer for bail and submitted that there are clear allegations that the informant was threatened by the applicant and co-accused persons to transfer his land in favour of co-accused and due to said threats, the informant has executed the sale-deed in

faovur of co-accused Abbas Ansari. Referring to the statement of the Branch Manager, it was pointed out that initially a cheque of Rs. 5,00,000/- (Five Lacs) was got deposited in the account of informant but on the same day, that amount was withdrawn through one person namely, Shahzad and thereafter an amount of Rs. 10,00,000/- (Ten Lacs) was deposited in the account of informant and the said amount was also withdrawn through cheques by one person, namely, Shekhu. It was also submitted that in fact, whenever any payment was made to the informant through Bank, the same was got withdrawn by the associates of the accused persons. Regarding criminal history of the applicant, it was submitted that the applicant has a long criminal history, in one case he has been acquitted and in one case the witnesses have not supported the prosecution version and turned hostile and applicant is habitual property grabber extending threats to the innocent persons by illegal means.

5. I have considered the rival submissions made by learned counsel for the parties and perused the record.

6. It is apparent that the land allegedly shown to have been grabbed by the applicant, was transferred by the informant to the co-accused by a registered sale-deed. Applicant is not beneficiary of the same and that consideration amount of Rs. 20,000,00/- (Twenty lacs) was shown to be transferred in the account of the informant. It is also shown that the informant filed a Civil Suit and the said suit is pending before the Civil Court.

7. Considering the submissions of learned counsel for the parties, nature of accusations, period of custody and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the bail application is hereby allowed.

8. Let the applicant **Anwar Shahjad** involved in the aforesaid crime be released on bail on furnishing a personal bond and two local sureties each of the like amount to the satisfaction of court concerned subject to the following conditions:

1. The applicant will not tamper with the evidence during trial.
2. The applicant will not pressurize/intimidate the prosecution witnesses.
3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant will not try to contact, threat or otherwise influence the complainant or any of the witness of the case.
5. In case of breach of any of the above condition, the court concerned shall be at liberty to cancel the bail of applicant, in accordance with law.

Order Date :- 4.12.2023

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