

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47062 of 2023

Applicant :- Prabhu Nath Maurya

Opposite Party :- State of U.P.

Counsel for Applicant :- Girish Vishwakarma, Akhilesh Singh

Counsel for Opposite Party :- G.A., Rajan Mishra

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, Sri Rajan Mishra, learned counsel for the informant and Sri Vinod Kumar Tiwari, learned A.G.A. for the State.
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. 185 of 2022, under Sections 406, 419, 420, 467, 468, 471, 427, 120-B, 34, 506 I.P.C., Police Station- Chiluatal, District- Gorakhpur, during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant was neither vendor, vendee nor marginal witness of the alleged sale-deed. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. The plot of the applicant is adjacent to the plot of the informant. In order to harass him the instant prosecution has been instituted. At this stage, there is no cogent evidence to link the applicant with the offence. It is next contended that the seller of the property namely Ravi Prakash Tripathi has been granted bail by this Court vide order dated 16.01.2023 passed in Criminal Misc. Bail Application No. 57400 of 2022. The case of the applicant is on better footing to that of co-accused Ravi Prakash Tripathi. The criminal history of the applicant has been explained in paragraphs 2 and 3 of the supplementary affidavit. The applicant is in jail since 22.08.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
5. 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.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant was neither vendor, vendee nor marginal witness of the alleged sale-

deed. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. At this stage, there is no substantive evidence against the applicant. The applicant has remained confined for more than three months and after submission of the charge-sheet 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 delay the trial 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, **Prabhu Nath Maurya** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper 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; and,

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 :- 2.12.2023

Lbm/-