

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47637 of 2023

Applicant :- Prabhu Nath Maurya

Opposite Party :- State of U.P.

Counsel for Applicant :- Girish Vishwakarma

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

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant, Sri Rajan Mishra, counsel for the informant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-respondent.
3. 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. 477 of 2022, under Sections 420, 379, 406, 506, 427, 467, 468, 471 and 120B of I.P.C., Police Station- Chiluwatal, District-Gorakhpur, during the pendency of the trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant was neither the vendor/ vendee nor the marginal witness of the alleged sale deed dated 21.02.2011. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. At present, there is no cogent evidence to link the applicant with the offence. It is next contended that identically placed co-accused, Brijesh Kumar Singh @ Brijesh Kumar Shahi, has been granted bail by this Court vide order dated 05.07.2023 in Criminal Misc. Bail Application No. 24100 of 2023. The criminal history of the applicant has been explained in para nos. 2 and 3 of the supplementary affidavit. The applicant is in jail since 22.08.2023. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. and 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 no amount has been credited in the account of the applicant. The applicant is not a

beneficiary of the illicit transaction. Identically placed co-accused, Brijesh Kumar Singh @ Brijesh Kumar Shahi, has been granted bail by this Court. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than three months 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, 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; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 1.12.2023
Sachin Mishra