

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48351 of 2023

Applicant :- Dharmdev Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Mata Pher

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant and Sri Vinod Kumar Tiwari, learned A.G.A. for the State and perused the record.
2. 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. 767 of 2023, under Sections 448, 467, 468, 471, 506 I.P.C., Police Station- Pipraich, District- Gorakhpur, during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The informant is the daughter-in-law of the applicant. The informant has already executed a registered agreement to sell in favour of third party with regard to her portion and has received an advance of Rs. 11 lakhs. The said agreement is annexed as Annexure-6 to the affidavit. The dispute is primarily of civil in nature and has been given colour of a criminal case to harass the applicant. At this stage, there is no cogent evidence to link the applicant with the offence. The applicant is in jail since 15.10.2023 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the dispute is primarily of civil in nature. At this stage, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. The applicant has remained confined for more than a month 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.

6. Let the applicant, **Dharmdev Chauhan**, 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.

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 :- 30.11.2023

Lbm/-