

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50360 of 2023

Applicant :- Mahesh Tyagi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ishwar Chandra Tyagi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant, Sri Prateek Tyagi, 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. 159 of 2023, under Sections 420, 406, 467, 468, 471, 120B, 504, 506 I.P.C., Police Station- Nagal, District- Saharanpur during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant and the informant had entered into an unregistered agreement to sell, with regard to a property situated at Gram Sarsina, Pargana Nagla, Tehsil Deoband, District Saharanpur measuring a total Rakba 105 bigha. Pursuant to the said agreement Rs.26 lacs. was transferred in the account of the applicant and rest was to be paid in cash. The date of execution of the sale deed was mentioned as 15.7.2023. It is contended that prior to the date of execution of the sale deed, the instant first information report has been lodged against the applicant. The applicant did not have any intent to sell the aforesaid land to another person. The case is purely civil in nature and has been given a colour of criminal case. Further, the applicant is ready to return the amount received by him from the informant. The criminal history of the applicant has been explained in para 11 of the bail applicant. The applicant is in jail since 28.6.2023. 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 prior to the date fixed for execution of the sale deed the instant first information report has been lodged. The case is purely civil in nature. At this stage there is no substantive evidence against the applicant. Further the

applicant has presently remained confined for more than five months and 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 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, **Mahesh Tyagi** 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 tamper 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.

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 :- 2.12.2023
S.S.