

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50807 of 2023

Applicant :- Saleemuddin

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Tiwari

Counsel for Opposite Party :- G.A.,Anand Prakash Dubey

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Sunil Kumar Tiwari, learned counsel for the applicant, learned AGA for the State, Sri Anand Prakash Dubey, learned counsel for the informant and perused the record.

2. By means of this bail application, applicant seeks bail in Case Crime No.0455 of 2023, under Sections 420, 467, 468, 471 IPC, Police Station Mawana, District Meerut, during the pendency of trial.

3. It is submitted by learned counsel for the applicant that it is a matter of civil dispute but it has been coloured as a criminal case and concocting a false and base-less story this FIR has been lodged against the applicant. As per FIR, the applicant being not the bhumidhar with transferable rights of the property in question sold the property to different persons without any right, title and interest. Learned counsel for the applicant also contended that initially the name of Bundu, father of the applicant, had been recorded as tenure holder of the property in question which was mistakenly left by the revenue authorities. The name of Bundu remain on the record upto 1403 fasli. At the time of preparation of khatauni register for 1404 fasli to 1409 fasli, the name of the applicant's father had been left which has been recognized by the SDO, Mawana on which basis the name of applicant has been recorded in the khatauni on 06.10.2023.

4. Learned counsel for the applicant further contends that the revenue records are not the papers of title; they are only to collect the revenue or malguzari and there is always rebuttable presumption of correctness of the revenue records. According to him, family partition had already taken place on which basis the applicant was the owner and in possession of the property in question to his share which has been sold to others after getting the consideration. He next contends that no cheating or fraud has been committed by the applicant. There is no previous criminal history against the applicant. There is no likelihood of

his abscondence or tampering with the evidence. The applicant is in jail since 07.11.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA has opposed the bail application. Learned counsel for the informant has also opposed the bail application and states that the property in question has been sold by the applicant on 22.08.2023 prior to insertion of the name of the applicant.

6. In view of above, according to this Court, in this regard Section 43 of the Transfer of Property Act, 1882 may be referred and according to which even if a person has fraudulently or erroneously represented the property which is in the name of his father would be well, good and correct. Therefore, having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Saleemuddin**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

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 :- 11.12.2023

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