

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3107
of 2023

Applicant :- Abbas Ansari

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Pranjal Krishna, Arun
Sinha, Siddhartha Sinha

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Arun Sinha and Sri Pranjal Krishna, the learned counsel for the applicant, Smt. Parul Kant, learned A.G.A. for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.0236 of 2020, under Sections 120-B, 420, 467, 468, 471 I.P.C. and Section 3 of Prevention of Damage to Public Property Act, 1984, registered at Police Station Hazratganj, District Lucknow.

3. The aforesaid proceedings arises out of a First Information Report lodged by the Lekhpal In-Charge of Jiamau, Tehsil Sadar, Lucknow, against three named accused persons- (i) Abbas Ansari, (ii) Umar Ansari, and (iii) Mukhtar Ansari, stating that in the Khatauni relating to the year 1359 Fasli year, land bearing Gata No. 93 having an area of 5-Bigha 3-Biswa 10-Biswansi was recorded in the name of Mohd. Wasim Ansari S/o Naseem Saheb as its Matahatdar. After Mohd. Waseem went to Pakistan, the aforesaid property was recorded as "Evacuee Property" and it is so mentioned in the Evacuee Property Register No. 10 at Serial No. RHZ-1/1. Subsequently, the name of one Krishna Kumar was entered as the person in

possession of the aforesaid land without proper authority and this entry was made without any order passed by a competent authority. The entry of Matahatdar was made on the basis of forged documents. The F.I.R. further states that from a perusal of the records it transpired that the original Khataunis relating to the years 1371 Fasli to 1374 Fasli have been made to disappear so that the aforesaid entry recorded on the basis of forged documents could not come to light. Knowing fully well that the Evacuee Property vests in the Government, the accused persons got a building plan sanctioned on the basis of forged documents by taking advantage of their influence and they took the property into their possession and use, thereby misappropriating the Evacuee Property that vests in the Government. The F.I.R. further states that after an inquiry by the competent authority, the aforesaid property was again registered as 'Evacuee Property' on 14.08.2020.

4. An investigation was carried out in furtherance of the aforesaid F.I.R. and the Police has submitted a charge-sheet, in furtherance whereof the Court has taken cognizance of the case and the applicants have been summoned to face the trial.

5. In the affidavit filed in support of bail application it has been stated that the applicant is innocent and he has been falsely implicated in the present case. In the affidavit filed in support of bail application the applicant's involvement in 8 cases has been disclosed in para 38 of the affidavit filed in support of the application.

6. The State has filed a counter affidavit opposing the bail application. Learned A.G.A. has submitted that the applicant is a Member of Legislative Assembly and he holds an influential position and therefore there is a reasonable apprehension of his being able to influence the witnesses of the case on his release

on bail.

7. A rejoinder affidavit has been filed on behalf of the applicant explaining the applicant's involvement in 8 cases, as pointed out by the State, in two of which the applicant has been granted bail and the F.I.R. of one case has been quashed.

8. The learned counsel for the applicant has also submitted that the applicant's brother Umar Ansari has been granted anticipatory bail by Hon'ble the Supreme Court vide order dated 17.07.2023, passed in Special Leave to Appeal (Crl.) No.5579 of 2023 and copy of the order has been annexed with the rejoinder affidavit. The allegation against the applicant and the co-accused Umar Ansari are similar in nature and the applicant is also entitled to be released on bail.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the allegations against the applicant and co-accused Umar Ansari are same and that the co-accused Umar Ansari has been granted anticipatory bail by Hon'ble the Supreme Court, whereas the applicant is languishing in jail since 22.12.2021 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime on the ground of parity.

10. Accordingly, this bail application stands **allowed**.

11. Let the **applicant-Abbas Ansari** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

(i) the applicant shall not tamper with the prosecution evidence;

- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

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(Subhash Vidyarthi, J.)

Order Date :- 6.11.2023

Ram.