

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10847 of 2023

Applicant :- Sayem Yazdani

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Civil Secrty., Lko.

Counsel for Applicant :- Shobhit Harsh, Jatin Raheja, Ram Shubham, Shakti Kumar Sharma

Counsel for Opposite Party :- G.A., Nadeem Murtaza, Paavan Awasthi, Prashast Puri, Yusuf Uz Zaman Safwi

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Shakti Kumar Sharma, the learned counsel for the applicant, Sri Rakesh Kumar Singh, the learned AGA for the State, Sri Nadeem Murtaza, the learned counsel for the informant and perused the records.
2. The instant application has been filed seeking release of the applicants on bail in Case Crime No. 35 of 2023, under Sections 304, 308, 323, 420, 120B IPC & 7 C.L.A. Act, Police Station Hazratganj, District Lucknow.
3. The aforesaid case has been registered on the basis of an FIR registered on 25.01.2023 against three persons, not including the applicant, stating that a building known as Allayah Apartment fell down entirely. The building had been constructed by the three named accused persons. 13 flats were constructed in it. The construction was of very poor quality and some further construction activity was being carried out using heavy machinery, which caused vibrations in the building and that resulted in its fall.
4. In the affidavit filed in support of the application, it has been stated that the applicant is innocent and he has been falsely implicated in the present case.
5. A supplementary affidavit has been filed disclosing the applicant's involvement in 18 cases, in 7 of which the applicant has been granted bail.
6. The learned counsel for one of the victims Abbas Haider have vehemently opposed the bail application and he has submitted that after investigation the Investigating Officer has recorded in the charge sheet that the applicant had entered into a

builder's agreement under which the building in question was constructed.

7. Replying to the aforesaid objection, the learned counsel for the applicant has drawn attention of the Court to a copy of the agreement annexed with the affidavit filed in support of the bail application, which was executed between Mohd. Tarik and Fahad Yazdani and the applicant is not a party to the said agreement.

8. The learned counsel for the applicant submits that this agreement was executed on 26.08.2009 and the flats were sold shortly thereafter whereas the applicant became a director of the company in the year 2014. He has submitted that the applicant had no role in construction of building.

9. Two co-accused persons Mohd. Tarik and Nawajish has been granted bail in the present case and copies of their bail orders have been annexed with the affidavit filed in support of the application.

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant is languishing in jail since 04.03.2023 and even charges have not been framed till date 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 applicants on bail in the aforesaid crime.

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

12. Let the applicant-***Sayem Yazdani*** be released on bail in Case Crime No. 35 of 2023, under Sections 304, 308, 323, 420, 120B IPC & 7 C.L.A. Act, Police Station Hazratganj, District Lucknow 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.

Order Date :- 1.11.2023

Pradeep/-