

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11881 of 2023

Applicant :- Omkar Singh And Another

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

Counsel for Applicant :- Anurag Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Shri Anurag Singh, learned Counsel for applicant, Shri Amitabh Chaturvedi, learned A.G.A. as well as Shri Ishan Baghel, learned counsel for the informant and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.177 of 2023, under Sections 420, 467, 471, 406, 504, 506 IPC, Police Station Mohali, District Sitapur.

3. The aforesaid case has been register against four persons including the applicant stating that on 25.04.2019, a registered agreement was executed by the applicants to sell their house to the informant for a sale consideration of Rs.14 lakhs and co-accused Anurag Shukla was one of the witnesses of execution of the agreement. The informant had paid Rs.5 lakhs in cash and Rs.5 lakhs through cheque at the time of execution of the agreement. The balance sale consideration of Rs.4 lakhs was to be paid within three years and a sale deed was to be executed within the aforesaid period. It is alleged that the accused persons were avoiding execution of the sale deed and on 05.01.2023, Smt. Neelam Kaur, mother of the applicants executed another sale deed in favour of some one Dhirendra Kumar Verma in respect of the same house.

4. The F.I.R. alleges that the accused persons have declined to refund the money paid under agreement to sell the property.

5. Learned counsel for the informant has vehemently opposed the bail application and on the last date he had pointed out the involvement of applicants in some other cases. A supplementary affidavit has been filed on behalf of the applicants disclosing their involvement in two cases under Section 138 of Negotiable Instruments Act and two other F.I.Rs.

6. Learned counsel for informant has submitted that the applicants are guilty of cheating the informant as they had earlier executed an agreement in favour of the informant and thereafter they have sold the same land to some other person, without refunding the informant's money.

7. From the material available before the Court at this stage, prima facie it appears that the agreement dated 25.04.2019 contemplated payment of balance sale consideration and execution of sale deed within a period of three years; it is not the informant's case that he had tendered the balance sale consideration and had sent any notice calling upon the applicants to execute a sale deed in his favour. The dispute predominantly appears to be of breach of agreement to sell/specific performance of contract, which is inherently of civil nature.

8. Without making any further observations, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicants on bail.

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

10. Let the applicants- **Omkar Singh And Arun Deep Singh** be released on bail in Case Crime No. 217 of 2023, under Sections 177 of 2023, under Sections 420, 467, 471, 406, 504, 506 IPC, Police Station Mohali, District Sitapur. 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 applicants shall not tamper with the prosecution evidence;

(ii) the applicants shall not pressurize the prosecution witnesses;

(iii) the applicants shall appear on each and every date fixed by the trial court.

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[Subhash Vidyarthi, J.]

Order Date :- 12.10.2023

-Amit K-