

**Court No. - 16**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 12900 of 2023

**Applicant :-** Santosh Kumar Sharma

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

**Counsel for Applicant :-** Pradeep Tiwari

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Vidyarthi,J.**

1. Heard Sri Pradeep Tiwari, the learned counsel for the applicant, Sri Sanjay Maurya, the 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. 9 of 2022, under Sections 406, 420, 467, 468, 471 I.P.C., registered at Police Station Mahanagar, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on the basis of an application moved under Section 156 (3) Cr.P.C. against three persons, including the applicant by an Assistant General Manager of Bank of India stating that the applicant had taken cash credit facility from the bank on 15.03.2011 in the name of his firm and the co-accused persons had stood sureties for repayment of credit. On 11.04.2011 the applicant and his wife Anjali Sharma had applied for a vehicle loan and the applicant no.1 had mortgaged his land by deposit of original title deed dated 12.05.2006. In the year 2015 it came to light that the sale deed was forged. Moreover, the applicant had sold the vehicle on 13.11.2014.

4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.

Regarding the cash credit limit the bank has already initiated proceedings against the applicant under SARFAESI Act, 2002 on 0207.2012 which are still pending. Regarding the sale of the hypothecated vehicle it has been stated that the vehicle was purchased by the son of a Manager of the same bank knowing fully well that the vehicle was hypothecated.

5. The learned counsel for the applicant has drawn attention of this court to a certificate issued by the bank's advocate stating that he has inspected the title deed of the mortgaged property and nothing adverse against the applicant has been stated by the advocate.

6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the credit facility was granted way back in the year 2011, the bank initiated recovery proceedings in the year 2012, the bank advocate has not stated anything against the applicant in his opinion; that the complaint has been filed in the year 2022 coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since 31.08.2022 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.

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

9. Let the **applicant-Santosh Kumar Sharma** 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.

**(Subhash Vidyarthi, J.)**

**Order Date :- 1.11.2023**  
Ram.