

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13221 of 2023

Applicant :- Amarnath @ Amarnath Shukla

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

Counsel for Applicant :- Kaushal Kishore Tewari

Counsel for Opposite Party :- G.A.,Ishwar Dutt Shukla

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Kaushal Kishore Tewari, the learned counsel for the applicant, Sri Arpit Kumar, the learned A.G.A. for the State, Sri I.D. Shukla, 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. 356 of 2023, under Sections 419/ 420/ 467/ 468/ 471 IPC, Police Station Ram Nagar, District Barabanki.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 23.06.2023 against the applicant and his father-Jitendra Shukla, stating that the co-accused Jitendra Shukla claimed ownership of the land of the informant's father on the basis of a fake will and he had got his name mutated in the revenue records. The date of mutation has not been mentioned in the FIR but it has been stated that the mutation order has been cancelled by means of orders dated 09.02.2018 and 03.01.2023 passed by the competent courts. On 06.05.2023, co-accused Jitendra Shukla executed an agreement to sell the land in question in favour of one Shah Mohammad and the applicant had witnessed execution of the agreement. A copy of the agreement dated 06.05.2023 annexed with the affidavit indicates that the possession of the land in question has not been transferred through the agreement.

4. The learned counsel for the applicant has submitted that after the mutation order was set aside, co-accused Jitendra Shukla did not have any transferable right in the land, he has got the agreement to sell cancelled.

5. Sri I.D. Shukla, the learned counsel for the informant has vehemently opposed the bail application and he has submitted that the accused persons have admitted to sell the informant's

land and to disturb his possession of the agreement in question.

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

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that ownership or possession of the informant in respect of the land in question was not affected by execution of agreement to sell, which itself mentions that possession was not delivered through the agreement; that no sale deed has been executed in furtherance of the agreement and the applicant has no criminal history and he is languishing in jail since 13.09.2023 for the sole reason of having witnessed the agreement to sell in furtherance of which neither ownership nor possession has been transferred 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 case.

9. Accordingly, this bail application stands allowed.

10. Let the applicant-**Amarnath @ Amarnath Shukla** 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.

Order Date :- 9.11.2023

Pradeep/-