

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13823 of 2023

Applicant :- Harishchandra Tiwari

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Home Civil Sectt. Lko

Counsel for Applicant :- Alok Kr. Misra,Pawan Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Alok Kr. Misra, the learned counsel for the applicant as well as Sri Vinay Kumar Shahi, the learned Additional Advocate General-I, appearing on behalf of the State and perused the records.

2. The instant application has been filed by the applicant seeking bail in F.I.R. bearing Case Crime No. 252 of 2022, under Sections 419, 420, 467, 468, 471 & 120-B of IPC, Police Station Kotwali Nagar, District Gonda.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 22.04.2022 against four persons, including the applicant, alleging fraudulent execution of an agreement to sell, execution whereof was witnessed by the applicant also.

4. In the affidavit filed in support of the application it has been stated that the agreement in question already stands cancelled by means of a cancellation deed, which has been duly registered on 19.09.2020 i.e. much before lodging of the present FIR.

5. The applicant's involvement in eight other cases has been disclosed in paras 17 to 28 of the affidavit filed in support of the application and in para 3 of the supplementary affidavit which are of similar nature and in all those cases also the applicant had witnessed execution of the agreement and all those agreements have been cancelled.

6. The learned counsel for the applicant has submitted that co-accused Ratnesh Kumar Dwivedi, has already been granted bail by means of an order dated

08.11.2023 passed by this Court in Criminal Misc. Bail Application No.13310 of 2023.

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 the offending agreement stood cancelled much before lodging of the FIR, the applicant has been implicated merely because he had witnessed the execution of the agreement and that the applicant is languishing in jail since 20.09.2023 where as a similarly situate co-accused person has been granted bail and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant during pendency of the trial.

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

10. Let the **applicant- Harishchandra Tiwari** 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 the 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 :- 23.11.2023

Preeti.