

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7152 of 2023

Applicant :- Brijesh Kumar Awasthi

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

Counsel for Applicant :- Shachindra Pratap Singh, Prateek Tewari, Shailendra Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar, J.

Heard learned counsel for the applicant and learned A.G.A. for the State as well as perused the record.

The present bail application has been filed by accused-applicant seeking bail in Case Crime No.799 of 2018, under Sections 409, 419, 420, 466, 467, 468, 471, 120(B) I.P.C., P.S. Kotwali Nagar, District Gonda.

In the prosecution case, it is alleged that applicant in connivance with the co-accused persons on the basis of forged sale deed and taking Naib Tehsildar in this conspiracy with them got the land in question mutated in the name of Usha Devi. It is also alleged that forged revision has been filed in the name of complainant before the Additional Commissioner, Devi Patan Mandal, Gonda. Thereafter, the same has been got dismissed for non-prosecution and original record of the revision has been misplaced.

Learned counsel for the applicant submits that the applicant has been falsely implicated in this case however, the applicant is neither vendor nor vendee or witness in the sale deed. Initially, final report was filed in this case however, due to interference of Deputy Inspector General of Police, Devi Patan Mandal, Gonda further investigation under Section 173(8) of the Cr.P.C.

was initiated and applicant was arrested deliberately during pendency of the investigation.

He further submits that till date no material has been collected by the Investigating Agency to link with the applicant in this crime except sweeping allegations. The co-accused persons namely Rakesh Kumar Tripathi and Mahendra Pratap Singh have been granted bail by this Court vide orders dated 03.10.2024 & 03.10.2024 passed in Criminal Misc. Bail Application Nos.15444/2023 & 14270/2023 respectively. He seeks parity with the bail orders of aforesaid co-accused persons. He submits that applicant has explained the criminal history in paragraphs 24 and 25 of the bail application. The applicant is in jail since 28.02.2023.

Learned A.G.A. has opposed the bail prayer however, submits that considering the allegation on the applicant it may be provided that applicant may not enter into the premises of Sub-Registrar, Gonda as well as in the premises of Tehsildar Sadar, Gonda during pendency of the trial.

On due consideration to the submissions advanced, perusal of the record as also the fact that the applicant is languishing in jail since 28.02.2023, offences are triable by magistrate, applicant has explained the criminal history in paragraphs 24 and 25 of the bail application, till date trial has not commenced according to status filed by the applicant in rejoinder affidavit so also the judgement of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another : Criminal Appeal No.2787 of 2024* and without expressing any opinion on merits of the case, I find it to be a fit case for enlarging the applicant on bail.

Accordingly, the bail application is **allowed**.

Let the applicant ***Brijesh Kumar Awasthi*** be released on bail in aforesaid case crime number subject to his furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of the trial court concerned with the following conditions:

(i) The applicant will not enter into the premises of Sub-Registrar, Gonda as well as in the premises of Tehsildar Sadar, Gonda during pendency of the trial.

(ii) The applicant will not tamper with the evidence during the trial.

(iii) The applicant will not pressurize/ intimidate the prosecution witness.

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(v) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(vi) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(vii) In case, the applicant misuses the liberty of bail during trial

and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

Order Date :- 18.12.2024
Saurabh Yadav/-