

Court No. - 15

Case :- CRIMINAL MISC. BAIL
APPLICATION No. - 10251 of 2023

Applicant :- Ram Bahadur

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

Counsel for Applicant :- Prashant Kumar, Angrej
Nath Shukla, Sarvesh Kumar Tiwari, Satish
Gulati, Vijay Nath Pandey

Counsel for Opposite Party :- G.A., Anil Kumar
Tripathi, Anil K. Tripathi

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the accused-applicant, learned A.G.A. for the State, as well as Mr. Anil Kumar Tripathi, learned counsel for the informant/complainant, and perused the record.
2. This bail application has been moved by the accused/applicant-**Ram Bahadur** for grant of bail in Case Crime No.0112 of 2023, under Sections 419, 420, 467, 468, 471 and 120-B IPC lodged at Police Station Kotwali Nagar, District Gonda, during trial.
3. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case and he has not committed any offence, as claimed by the prosecution. It is further submitted that the allegations against the applicant and other accused persons named in the FIR are to the tune that they by making manipulations in the official record have executed sale-deed of Nazul

Land to different persons and the applicant who at that point of time was detained in prison had executed a power of attorney in favour of his wife and it was his wife, namely, Umadevi who had executed the sale-deed along with other sellers namely Sadanand, Arjun Prasad, Kashiram, Jagdish Prasad, Jagdev, Vasudev and Ayodhya Prasad and out of these, accused persons, namely, Umadevi, Sadanand, Arjun Prasad, Jagdish Prasad, Jagdev, Vasudev and Ayodhya Prasad have been granted bail by the coordinate benches of this Court vide order passed in Criminal Misc. Anticipatory Bail Application Nos. 860 of 2023, 1249 of 2023, 1324 of 2023, Criminal Misc. Bail Application Nos. 7744 of 2023 and 6488 of 2023, copies of which are placed collectively as Annexure-15 to the bail application.

4. It is vehemently submitted that the applicant was earlier convicted for committing the offence under Section 302/34 IPC by the trial Court and the division Bench of this Court vide judgment and order dated 04.01.2023 has also dismissed Criminal Appeal Nos. 476 of 1997, however, the applicant has been released on bail by the Hon'ble Supreme Court vide order dated 02.05.2022 passed in Criminal Appeal No.526 of 2015. It is also submitted that apart from the above mentioned case wherein the applicant was convicted, a complaint case has been lodged by the complainant/informant of that case wherein the applicant has been convicted and no process of the Court with regard to this case has been served on the applicant and one case pertaining to the Goondas Act, which is also shown against the applicant, is pertaining to the year 2004 and it has lost its efficacy due to efflux of time. It is also

submitted that the applicant is languishing in jail in this case since 06.07.2023. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail, he may flee from the course of law or may otherwise misuse the liberty and, keeping in view the fact that identically placed co-accused persons, namely, Umadevi, Sadanand, Arjun Prasad, Jagdish Prasad, Jagdev, Vasudev and Ayodhya Prasad have been granted bail by the coordinate Benches of this Court and the trial may take some time to conclude, the applicant may also be extended the facility of bail.

5. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed a heinous offence and, therefore, he is not entitled to be released on bail.

6. Learned counsel for the complainant/informant, Mr. Anil Kumar Tripathi also opposes the bail plea of the applicant by drawing attention of this Court towards the judgment of the division Bench of this Court dated 04.01.2023 passed in Criminal Appeal No.476 of 1997 as well as the order of the Hon'ble Supreme Court passed in Criminal Appeal Nos. 526 of 2015 of date 02.05.2022 as well as another order passed of the Hon'ble Supreme Court passed in Criminal Appeal No.526 of 2015 and to the bail cancellation application moved by the informant and vehemently submits that the applicant is a convict and he after having been convicted by a division Bench of this Court was not traceable and process under Section 82-83 CrPC was also issued against him and it is only thereafter he was apprehended and thereafter he has misused the

facility of bail granted to him by the Hon'ble Supreme Court and in this regard bail cancellation application has also been moved by the informant of that case before the Hon'ble Supreme Court on 17.07.2023.

7. Having heard learned counsel for the parties and having perused the record, there appears no doubt with regard to the fact that the role of the instant applicant is at par with co-accused persons- Umadevi, Sadanand, Arjun Prasad, Jagdish Prasad, Jagdev, Vasudev and Ayodhya Prasad, as allegations against them and applicant are one and same except that the instant applicant in that sale-deed was represented by his wife in whose favour he executed a power of attorney and the sale-deed has been executed on his behalf by his wife. Coming to the criminal history of the applicant, the same is comprising of three cases, two of such cases are with regard to complaint case filed by the complainant and a case wherein earlier the applicant was convicted and with regard to third case no process is shown to have been issued by the trial Court and, in the last the case is with regard to the Goondas Act lodged in the year 2004 which has lost its efficacy due to efflux of time.

8. Coming to the submissions made on behalf of the informant/complainant that the applicant is a convict, the record would fortify this position that the applicant has been convicted by a division Bench of this Court in the manner highlighted herein before, however, he has been granted bail by the Hon'ble Supreme Court, in other words, his sentence has been suspended by the Hon'ble Supreme Court and in pursuance of an application filed by the informant for cancellation

of his bail before the Hon'ble Supreme Court with regard to certain incident the Hon'ble Supreme Court has directed the State to verify the said incident and has further directed to list the case after six weeks. Thus, the question of cancellation of bail on account of any mischief committed by the applicant may be better appreciated by the Hon'ble Supreme Court wherein the bail cancellation plea of the informant is pending. Suffice is to say that the role of the applicant is at par with the identically placed co-accused persons, namely, Umadevi, Sadanand, Arjun Prasad, Jagdish Prasad, Jagdev, Vasudev and Ayodhya Prasad and I do not find any ground on the basis of which the same facility may not be extended in favour of the applicant.

9. In result, this bail application moved on behalf of the applicant is **allowed**.

10. Let the accused/applicant-**Ram Bahadur**, involved in above-mentioned case, be released on bail **on his furnishing a personal bond with two sureties of heavy amount** in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

11. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

12. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

13. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 23.1.2024

MVS/-