

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49301 of 2022

Applicant :- Satya Prakash Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Suresh Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Pankaj Kumar Mishra, Advocate has filed his Parcha on behalf of the applicant today and Sri Dinesh Kumar Srivastava, the learned Additional Government Advocate and perused the record.

2. Supplementary affidavit filed today is taken on record.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 155 of 2022, under Sections 420, 406, 504, 506 IPC, Police Station Iglas, District Aligarh during pendency of the trial in the Court below.

4. The aforesaid case has been registered on the basis of an F.I.R. lodged on 11.04.2022 against two named accused persons, including the applicant, alleging that the applicant had proposed to the informant to sell his land and on 06.07.2021, the deal was finalized for sale consideration of Rs. 43,00,000/- and Rs. 2,00,000/- were given to the applicant as earnest money. The applicant demanded a further sum of Rs. 10,00,000/- and the co-accused Santosh Agarwal supported him and accordingly, the informant paid Rs. 10,00,000/- in cash to the applicant. On 16.08.2021, the informant purchased stamp papers worth Rs. 2,16,000/- and transferred a sum of Rs. 41,00,000/- in the applicant's account but as soon as the amount was transferred, the applicant ran away and did not present himself for execution and registration of the sale deed.

5. Earlier the applicant had approached this Court by filing Criminal Misc. Writ Petition No. 5230 of 2022 which was decided by means of an order dated 09.05.2022 observing that in the event punishment for the alleged offences are below 7 years, the authorities while proceeding with the investigation shall comply with the requirement of section 41-A of Code of Criminal Procedure.

6. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has been

falsely implicated in the present case.

7. In paragraph No. 20 of the supplementary affidavit, the applicant's involvement in three other cases has been disclosed. In Case Crime No. 676 of 2017 under Section 420 IPC, Police Station Iglas, District Aligarh, the Investigating Officer has already filed a final report, in Case Crime No. 278 of 2019 under Sections 379, 420, 411 IPC, Police Station Hathrasgate, District Hathras, the applicant has been granted bail by means of an order dated 16.10.2019 passed by the Court below and in another case bearing Case Crime No. 425 of 2022 under Section 2/3 of The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Iglas, District Aligarh, the applicant has been implicated subsequently to lodging of the present F.I.R.

8. A supplementary affidavit has been filed on behalf of the applicant stating that on 22.02.2020, the applicant had sold away his land in favour of one Rakesh Agarwal. Rs. 45,00,000/- were paid as sale consideration, as mentioned in the sale deed, and it had been agreed that Rs. 43,00,000/- will be given by the purchaser after he would sell away the land by making plots in it. The purchaser Rakesh Agarwal has executed a sale deed in favour of one Mukul Agarwal, who is the real brother of the informant, and the amount transferred by the informant in the applicant's account is in furtherance of the aforesaid agreement.

9. The learned counsel for the applicant has submitted that the other co-accused Santosh Agarwal Katib has already been granted bail by means of an order dated 19.05.2022 passed by the learned Sessions Judge, Aligarh in Bail Application No. 2495 of 2022.

10. The applicant is languishing in jail since 07.09.2022.

11. Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail.

12. Having considered the aforesaid facts and submissions, prima facie it appears that the dispute is regarding payment of consideration for execution of a sale deed and non execution of sale deed by the informant; that there is no registered agreement to sell the property between the informant and the applicant and the dispute prima facie appears inherently of a civil nature; that co-accused has already been granted bail and the applicant has no previous criminal history, I am of the view that the applicant is entitled to be released on bail.

13. In light of the preceding discussion and without making any

observation on the merits of the case, the instant bail application is **allowed**.

14. Let the applicant **Satya Prakash Sharma** be released on bail in Case Crime No. 155 of 2022, under Sections 420, 406, 504, 506 IPC, Police Station Iglas, District Aligarh on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the following conditions:-

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

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make 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 to any police officer or tamper with the evidence.

15. In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

16. Before parting with the case, this Court is compelled to observe that a copy of a leaflet has been annexed with the supplementary affidavit, which reads as follows:-

!! श्री गणेशाय नमः !!

My Dream

Property & Real Estate

खेत, प्लॉट, फ्लैट, विला, मकान, दुकान खरीदने बेचने एवं किराये के लिये सम्पर्क करें।

विवादित भूमि के समाधान के लिये सम्पर्क करें।

मुकुल अग्रवाल (एडवोकेट) मो. 8859434747

ऑफिस 1- बृहस्पति वाली पैठ, सराय बाजार इगलास

कृष्णा कुमार मो. 7451097920

ऑफिस 2- बजाज ऐजेन्सी के पास, हाथरस रोड, इगलास

अमर वर्मा मो. 7017835739

प्रो.सूरज शर्मा मो. 9761829252

नितिन अग्रवाल (आर.एम.ब्रिक्स)

17. The conduct of Advocate in mentioning his name on advertising leaflets for sale, purchase and letting off the properties and for resolution of disputes regarding properties, appears to be a gross professional misconduct.

18. Let a copy of this order be sent to the Bar Council of Uttar Pradesh alongwith a copy of the leaflet annexed with the supplementary affidavit as annexure No. SA-4 for taking necessary action in the matter after holding an inquiry.

19. Let a copy of this order be also sent to the Registrar (compliance) for ensuring appropriate action.

Order Date :- 16.12.2022

Jaswant