

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15640 of 2023

Applicant :- Sakhawat

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar, Chandresh Kumar Chaurasiya, Ehtesham Afsar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri Ehtesham Afsar Khan, learned counsel for the applicant and Dr. S. B. Maurya, learned AGA-I for the State-respondent.
2. The instant second bail application has been filed seeking release of the applicant on bail in Special Case No.198 of 2009, arising out of Case Crime No.1210 of 2008, under Sections 3/4 Gambling Act & Sections 2/3 U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station Meerganj, District Bareilly, during pendency of the trial in the court below.
3. Learned counsel for the applicant submits that this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court vide order dated 31.01.2023 passed in Criminal Misc. Bail Application No.56444 of 2022 and he is pressing the instant second bail application mainly on the ground that applicant is ready to give an undertaking that in future he will attend the trial court regularly and fully co-operate with the trial of the case and in the present matter he is in jail since 07.11.2022 i.e. for more than a year.
4. Per contra, learned AGA opposed the prayer for bail and submits that applicant appears to be habitual absconder and after considering the entire facts of the case, first bail application of the applicant was dismissed but he could not

dispute the fact that earlier on merits applicant had released on bail in the present case and after absconding, he was arrested and since then i.e. 07.11.2022 he is in jail.

5. I have heard learned counsel for both the parties and perused the record of the case.

6. This is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court vide order dated 31.01.2023 and from the order dated 31.01.2023, it reflects that applicant although earlier had released on bail but thereafter, he absconded and twice he misused the liberty of bail granted to him but in the present matter, it appears that he is in jail since 07.11.2022 i.e for more last than a year and he has given an undertaking that in future he will attend the trial court regularly and fully co-operate with the trial of the case, therefore, considering the long period of incarceration of more than a year, in my view, applicant is entitled to be enlarged on bail.

7. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

8. Let the applicant- **Sakhawat**, 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 the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) 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 or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

9. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

10. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 29.11.2023

Zafar