

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20075 of 2023

Applicant :- Shanu @ Shaan Mohammad

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Kumar Gautam, Rajesh Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Rajesh Kumar Gautam, learned counsel for the applicant and Sri Brijesh Pratap Singh, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 184 of 2022, under Section 2/3 of U.P. Gangster Anti Social Activities (Prevention) Act, 1986, Police Station G.R.P., District Prayagraj during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application was dismissed by this Court vide order dated 16.01.2023 passed in Criminal Misc. Bail Application No. 56906 of 2022 and he is pressing the instant second bail application on the ground that instant matter relates to the provisions of Gangster Act and in the gang chart seven cases have been shown against the applicant and in all the cases applicant is on bail and he is in jail since 09.05.2022 i.e. for almost one and half years.

4. He further submits that first bail application of the applicant was dismissed on the ground that apart from the cases shown in the gang chart, applicant is having criminal history of 15 cases but in all the cases applicant has already been released on bail. He further submits that along with applicant co-accused Jagdeesh Bhartiya @ Sahil was also made accused but he has been released on bail by co-ordinate Bench of this Court vide order dated 04.08.2023 passed in Criminal Misc. Bail Application No. 25517 of 2023, therefore, considering the facts and circumstances of the case, applicant should also be released on bail.

5. Per contra, learned AGA opposed the prayer for bail and

submitted that this is second bail application filed on behalf of the applicant but could not dispute the fact that applicant is in jail for almost one and half years and after rejection of first bail application of the applicant, co-accused Jagdeesh Bhartiya @ Sahil has been released on bail by co-ordinate Bench of this Court and in the gang chart against co-accused Jagdeesh Bhartiya @ Sahil also seven cases were shown. He further could not dispute the fact that however apart from the cases shown in the gang chart applicant is also having criminal history of 15 other cases but in the all the 15 cases applicant is on bail.

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

7. Although, this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court vide order dated 16.01.2023 passed in Criminal Misc. Bail Application No. 56906 of 2022 but it appears that applicant is facing trial under the provisions of Gangsters Act and he is in jail for almost one and half years and although apart from the seven cases shown in the gang chart, applicant is also having criminal history of 15 other cases but in the all the cases application is on bail.

8. Further, co-accused Jagdeesh Bhartiya @ Sahil has been released on bail by the co-ordinate Bench of this Court vide order dated 04.08.2023 passed in Criminal Misc. Bail Application No. 25517 of 2023 i.e. after rejection of first bail application of the applicant and in the gang chart also seven cases were shown against him.

9. Therefore, considering the facts and circumstances of the case, particularly the long incarceration of the applicant for almost one and half years, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant - **Shanu @ Shaan Mohammad** 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.

12. 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.

13. 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 :- 26.10.2023

AK Pandey