

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33148 of 2023

Applicant :- Rajesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shyam Babu Vaish

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Shyam Babu Vaish, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 430 of 2022, under Sections 2/3 of U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Shikarpur, District Bulandshahr 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 of the applicant was dismissed by this Court on merit vide order dated 16.03.2023 passed in Criminal Misc. Bail Application No. 8734 of 2023 and he is pressing the instant second bail application on the ground that applicant in the present matter is in jail since 20.12.2022 i.e. for more than eleven months and till date trial of the case is even at initial stage and he is facing trial under the provisions of Gangster Act and there is no hope of its early disposal.

4. He further submits that from the perusal of bail rejection order dated 16.03.2023, it appears that apart from the cases shown in the gang chart, applicant was having criminal history of about 34 cases and he failed to explain the criminal history, therefore, this Court rejected the first bail application of the applicant but now in the instant second bail in paragraph-12 of the affidavit, applicant has explained his entire criminal history.

5. Per contra, learned AGA opposed the prayer for bail and submits that after considering the entire facts of the case, the first bail application of the applicant was dismissed but could not dispute the fact that applicant is facing trial under the provisions of

Gangster Act and he is in jail since 20.12.2022 i.e. for more than eleven months.

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

7. However, this is second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court on merit but it appears that applicant is facing trial under the provisions of Gangster Act and he is in jail since 20.12.2022 i.e. for more than eleven months and trial of the case is even at initial stage and there is no hope of its early disposal.

8. Therefore, considering the facts and circumstances of the case, particularly the incarceration of the applicant of more than eleven months, in my view, applicant is entitled to be released on bail.

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

10. Let the applicant - **Rajesh** 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.

11. 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.

12. 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 :- 9.11.2023

AK Pandey