

Court No. - 82

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32855 of 2023

Applicant :- Dhiraj

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ms. Nand Prabha Shukla,J.

This is the second bail application. The first bail application of the applicant has been rejected by the co-ordinate Bench of this Court vide order dated 12.5.2023.

This matter has been nominated to this Bench by Hon'ble The Chief Justice.

Supplementary and rejoinder affidavits filed today by learned counsel for the applicant, are taken on record.

Heard the learned counsel for the applicant and the learned A.G.A. for the State.

The present bail application has been filed by the applicant with the prayer to enlarge him on bail in Case Crime No. 75 of 2023, under Section 3(1) UP Gangster Act, Police Station Bhoganipur, District Kanpur Dehat.

The submissions of learned counsel for the applicant is that the applicant was made accused in the present case on the basis of six cases shown against him in the gang chart. He further submitted that applicant is neither member nor leader of any gang and has never indulged in any anti-social activity and in all the six cases shown in the gang chart, he has already been released on bail as averred in para 5 of the bail application. He also submitted that co-accused namely Vikas @ Addu has already been granted bail by the co-ordinate Bench of this Court vide order dated 21.06.2023 passed in Criminal Misc. Bail Application No. 21296 of 2023. He further submitted that an undertaking has been given in paragraph 3 of the supplementary affidavit that the applicant will never involve himself any criminal case or antisocial activity in future.

The applicant is in jail since 9.1.2023, therefore, he may be released on bail.

Per contra, the learned A.G.A. has opposed the prayer for grant of bail but he could not dispute the aforesaid case.

Having considered the aforesaid facts and submissions and keeping in view the fact that the applicant has already been granted bail in all the six cases mentioned in the gang-chart, the Court is of the view that the applicant has made out a case for being enlarged on bail pending conclusion of the trial. The bail application is, accordingly, allowed.

Let the applicant - **Dhiraj** be released on bail in Case Crime No. 75 of 2023, under Section 3(1) UP Gangster Act, Police Station Bhoganipur, District Kanpur Dehat on his furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to 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.

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

Order Date :- 3.11.2023

Monika