

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34430 of 2023

Applicant :- Santosh Rawat

Opposite Party :- State of U.P.

Counsel for Applicant :- P.K. Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan,J.

1. Learned A.G.A. submits that instructions have been received and has no objection in case the bail application is heard on merits.

2. Heard learned counsel for the applicant and learned A.G.A. for the State and perused the record.

3. It is submitted by learned counsel for the applicant that there are three cases shown in the gang chart against applicant, in which cases he is already on bail, the bail orders are annexed to the affidavit. It is also submitted that other criminal history of the applicant has been explained in paragraph 9 of the affidavit. It is the submission of learned counsel for the applicant that applicant neither the gang leader or organizer or member of the gang and the provision of Gangster Act may not be applicable in the facts and circumstances of the case. Applicant is languishing in jail since 27.03.2021 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial. In the first information report, the allegations are vague in nature and no specific instance to the effect that the applicant is member or leader or organizer of a Gang has been disclosed and as such the factual foundation under the Gangster Act is not available.

4. Learned A.G.A. for the State has opposed the prayer for bail but does not dispute the factual matrix of the case.

5. Having heard learned counsel for the parties, it is evident that the provision of Gangster Act has been invoked against the applicant on the basis of three criminal cases. However, applicant has been released on bail in the aforesaid cases. Learned A.G.A. has not produced any material to demonstrate that the applicant comes within the definition of "Gangster" and "Gang" under U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986. Mere

pendency of criminal case may not *ipso facto* invoke provisions of U.P. Act No.7 of 1986. Criminal history of the applicant has been adequately explained.

6. The applicant in the present case has been implicated on the basis of the criminal cases detailed in the gang chart. It is not in dispute by learned A.G.A. that the applicant has already been enlarged on bail in the criminal cases showing in the gang chart. Once the applicant has been enlarged on bail in previous criminal cases shown in the gang chart which forms the foundation for lodging of the criminal cases under the Gangster Act. This Court see no valid ground to detain the applicant in custody once the applicant has already been enlarged on bail in the cases shown in the gang chart.

7. Learned A.G.A. has not shown any other criminal history of the applicant.

8. Learned counsel for the applicant has drawn attention of the Court towards para-11 of the counter affidavit and submits that two cases being case crime no. 27 of 2021 and 34 of 2021 have been shown, however, the same are not part of the gang chart and nor part of the report of CCTNS. In para-11 of the counter affidavit following has been stated:

"That the contents of paragraph Nos.11, 12, 13 and 14 of the affidavit are wholly wrong and as such are denied and in reply it is submitted that the applicant is member of the gang of Vijay Saroj and they are involved in there is terror of the said gang in the area and they gaining pecuniary benefit for the said gang and they are committing the crime in Georgetown area and on 28.01.2021 they tried to snatch the gold chain of Shri Ambresh Mishra for which case crime no. 27/2021 under Section 393 I.P.C. and after investigation the investigating officer has submitted charge-sheet and on 01.02.2021 one Shri Rakesh Kushwaha has lodged the First Information Report as case crime no. 34/2021 under Section 392 I.P.C. is registered and several other cases are registered which come under Chapter XVI, XVII and XXII of Indian Penal Code and no person of the society to lodged F.I.R. against him to give evidence against him. It is further submitted that in the matter the Trial is going on and last date was fixed as 19.09.2023 and next date is fixed in the Trial as 18.10.2023."

9. The case crime no. 27/2021 and case crime no. 34/2021 as per learned AGA is not part of the gang chart and nor the part of CCTNS report or DCRB. Learned AGA could not show as to how the aforesaid case crime should be relevant for the purposes of the present case.

10. Considering the facts and circumstances of the case, nature of

offence, evidence, complicity of the accused, submissions of learned A.G.A. and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

11. Let the applicant **Santosh Rawat** involved in Case Crime No. 131 of 2021, under Section 2/3(1) of U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, Police Station Georgetown, District Prayagraj be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/ or the applicant shall make himself available for interrogation by a police officer as and when required.
- iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- v. The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.
- vi. The applicant shall not leave India without the previous permission of the Court.
- vii. In the event, the applicant changes his residential address, the applicant shall inform the court concerned about new residential address in writing.

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

Order Date :- 7.11.2023

Prajapati