

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36308 of 2023

Applicant :- Mohd. Asad @ Asaad

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Dheer Singh Jadaun

Counsel for Opposite Party :- G.A.,Chandra Kant Bharadwaj,Ratnendu Kumar Singh

Hon'ble Raj Beer Singh,J.

1. This bail application has been moved on behalf of applicant for being enlarged on bail in Case Crime No. 222/2022, under Sections-147, 149, 504, 506, 307, 427 and 120-B I. P. C., Police Station-Puramufti, district-Prayagraj, during pendency of trial.

2. Heard learned counsel for the applicant and Sri P. C. Srivastava, learned Additional Advocate General along with learned A.G.A. for the State as well as Sri Chandra Kant Bharadwaj, learned counsel for the complainant.

3. Learned counsel for the applicant submitted that the applicant is innocent and he has been falsely implicated in this case. The alleged incident has been shown of 26.7.2022 and first information report has been lodged after five days on 31.7.2022 and no explanation for delay in lodging the first information report has been furnished. In the incident no injury has been sustained by the informant. It was submitted that in fact the informant is having business rivalry with applicant and the informant is a land mafia and applicant has been falsely implicated by concocting a false story. The applicant has no concern with Ali Ahmed or any of his

associates and applicant was not involved in the alleged incident. Further, only general and omnibus allegations have been levelled against the applicant that the accused persons have made firing. No specific role has been assigned to the applicant/accused and no one has sustained any injury. As per prosecution version, ten accused persons were shown coming in a Ertiga car, which is a six seater car, and it is not probable that ten persons might have come by the said car. Criminal history of thirteen cases has been shown against the applicant and the same has duly been explained in the affidavit. Investigation of the case is already complete and chargesheet was submitted on 26/10/2012. Lastly it was submitted that the applicant is languishing in jail since 19.4.2023 and trial of the case is yet to start and thus, in view of the aforesaid facts and circumstances, the applicant may be granted bail. It was also submitted that similarly placed co-accused Ali Ahmed has been granted bail by this Court.

4. Learned Additional Advocate General as well as learned counsel for the informant have opposed the prayer for bail and submitted that the applicant is named in the first information report. It was submitted that the applicant is a member of gang of Ali alias Ali Ahmed, who is son of Ex member of parliament, late Ateeq Ahmad and the said gang was involved in several heinous crimes. The applicant has long criminal history of fifteen cases. The applicant-accused is infamous by the name of Asad Kaliya among the citizens of district- Prayagraj. He was arrested in Case Crime No. 732 of 2021 and before that he was absconding since more than one year and police have declared reward of Rs. 50000/- on his arrest, before he was finally arrested by Prayagraj police. The applicant was also involved in the conspiracy of broad-day-light murder of Umesh Pal, which is being investigated by the police.

The applicant is an active member of the said gang and some of the members of the gang are in jail and they have indulged in various illegal activities even from the jail. The applicant-accused has no parity with the case of Ali Ahmed, who has been granted bail by this Court. It is also submitted that in case the applicant is granted bail, he may threaten and attack the complainant. Referring to the facts of the matter, it was submitted that the applicant accused is not entitled for bail.

5. I have considered the submissions advanced by learned counsel for the parties and perused the record.

6. Perusal of the record shows that the informant had lodged first information report on 31.7.2022, alleging that on 21.7.2022 at 2:45 p.m. while he along with his friend Achal Kumar Bharti and Nazim, reached at his land at Mandri, one Ertiga car came there and it was being driven by co-accused Faisal and applicant was sitting on the front seat and accused persons were sitting on the rear seat and they exhorted to kill the informant. It was further alleged that the accused persons ran towards informant threatening to kill him and that the applicant and co-accused Faisal were having pistols in their hands and they made firing towards informant, however the informant escaped by taking side of a tree and after sometime accused persons went away. Though, it appears a case of no injury but the role of firing at the deceased has been assigned to the applicant and co-accused Faisal. Co-accused Ali Ahmed, who has been granted bail, was not assigned any specific role of firing. In view of the specific role attributed to the applicant and the criminal history of applicant, he cannot claim parity with co-accused Ali Ahmed. It was shown in the alleged incident of firing, the car of the informant was damaged and that three empty

cartridges were recovered from the spot. The version of the informant is supported by witness Achal Bharti.

7. In view of aforesaid facts that the statement of the complainant has not been recorded before the trial Court so far, at this stage, the applicant is not entitled to be released on bail. However, in case no substantial progress is made in the trial within a period of six months from today, the applicant would be at liberty to file a fresh bail application in accordance with law.

8. With the aforesaid observations, this bail application is hereby rejected.

Order Date :- 9.11.2023

HR