

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37479 of 2023

Applicant :- Mintoo Singh @ Ashish Singh And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

Supplementary affidavit filed today on behalf of the applicants, which taken on record.

Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.

The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.106 of 2023 under Section 3(1) of U.P. Gangster and Antisocial Activities (Prevention Act), 1986 Police Station Vindhyachal, District Mirzapur.

Learned counsel for the accused-applicants submitted that the applicants are innocent and has been falsely implicated in the instant case due to ulterior motive. According to the gang-chart (Annexure No.3), only one cases has been shown against the accused-applicants, in which they have enlarged on bail. Copy of bail order is annexed as annexure no.2 to the affidavit filed in support of bail application. Apart from the case shown against the applicants in the gang chart, the applicants have criminal history of two cases, which have been explained in para-4 of the supplementary affidavit dated 11.10.2023. The applicants are languishing in jail since 18.07.2023, in case they are enlarged bail, they will not misuse the liberty and would cooperate in the trial proceedings.

On the other hand, learned AGA has opposed the prayer for bail but could not controvert the aforesaid facts.

Considering the facts and circumstances of the case and taking into account that the accused-applicants have been enlarged on bail in the case shown in the gang-chart, criminal history of the applicants are well explained in para-4 of the supplementary affidavit dated 11.10.2023, applicants are languishing in jail since 18.07.2023 and undertakes that in case they are enlarged bail, they will not misuse the liberty and would cooperate in the trial proceedings, without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicants on bail.

Let applicants-**Mintoo Singh @ Ashish Singh and Nitish Singh @ Golu Singh**, be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

- (i) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.
- (ii) The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.
- (iii) In case, the applicants misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicants fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicants shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicants shall also give an undertaking to the effect that they will not change their address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 12.10.2023
VKG