

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39077 of 2023

Applicant :- Keshav Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rahul Chaudhary, Abhishek Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Counter affidavit filed on behalf of State in the Court today is taken on record.

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

3. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No. 582 of 2022, under Sections 3(1) of the U.P. Gangster & Prevention of Anti Social Activities Act, 1986 Police Station Ajeetmal, District Auraiya with the prayer to enlarge him on bail.

4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. According to gang-chart (Annexure No.2), two cases have been registered against the accused-applicant in which he is enlarged on bail. Copy of the bail order is annexed with the bail application and marked as Annexure

Nos. 3 & 4. Apart from the case mentioned in the gang chart, the applicant has criminal history of four cases. In Case Crime No. 104 of 2020, under sections 323, 504 and 325 I.P.C. after completion of investigation has submitted final report. The case, which was registered as Case Crime No. 485 of 2022, under section 13 Gambling Act has been disposed the 10th A.C.J.M-I, Auraiya, vide order dated 21.5.2023, in Case Crime No. 404 of 2021, under sections 376, 452 and 506 I.P.C. the applicant has been granted bail, in Case Crime No. 5 of 2022, under section 3/25/27 Arms Act the applicant has been granted bail by this Court, copy whereof has been filed as Annexure-5A & 5B of the affidavit accompanying bail application. It is next contended that similarly situated co-accused Veer Singh @ Veeru Singh has already been enlarged on bail by another Bench of this Court, vide order dated 25.4.2023, passed in Criminal Misc. Bail Application No. 18404 of 2023 of 2023. Copy of bail order produced by learned counsel for the applicant is taken on record. The applicant is languishing in jail since 9.1.2022. It is lastly submitted that since the role of the present applicant is identical to that of co-accused, who has already been enlarged on bail, present applicant is also entitled to be enlarged on bail on the ground of parity and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds.

5. On the other hand, learned AGA has vehemently opposed the prayer for bail and submitted that the applicant is involved in cases which are registered under sections 376, 302 and 307 I.P.C., which are heinous in nature. The applicant is a habitual offender and in case he is enlarged on bail there is every possibility that the applicant may tamper with evidence, induce the witnesses and may not cooperate with the trial. Coupled with the fact that there is every possibility that the applicant may indulge in offence of same nature, hence the applicant's prayer for bail at this stage is liable to be rejected.

6. From the perusal of the record, it transpires that the applicant has been released on bail in Case Crime no. 602 of 2022, under Sections 302, 201, 392, 411 and 34 I.P.C., P.S. Ajitmal, district-Auraiya and given benefit of ***Satendra Kumar Antil vs. C.B.I. & Another, passed in S.L.P. (Crl.) NO. 5191 of 2021, dated 11.7.2022.***

7. After having heard the submissions advanced by learned counsel for the parties and perused the material brought on record, considering that applicant is involved in cases which are registered under sections 376, 302 and 307 I.P.C., which are heinous in nature. The applicant is a habitual offender and in case he is enlarged on bail there is every possibility that the applicant may tamper with evidence, induce the witnesses and may not cooperate

with the trial. Coupled with the fact that there is every possibility that the applicant may indulge in offence of same nature, hence the applicant deserves in laxity, the bail application is liable to be rejected and the benefit of *Satendra Kumar Antil* (supra) cannot be given to the applicant under Section 302 I.P.C.

8. In view of the above discussion, this Court is not inclined to enlarge the applicant on bail at this stage of trial.

9. The bail application of the applicant is accordingly rejected.

(Renu Agarwal,J.)

Order Date :- 16.10.2023/Faridul