

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42852 of 2023

Applicant :- Wazid

Opposite Party :- State of U.P.

Counsel for Applicant :- Indra Bhan Yadav, Nikhil Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Counter affidavit filed on behalf of the State is taken on record.
2. Heard Sri Nikhil Kumar alongwith Sri Indra Bhan Yadav, learned counsel for the applicant, learned AGA for the State and perused the record.
3. By means of the present bail application, the applicant seeks bail in Case Crime No.457 of 2022, under Section 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Behat, District Saharanpur, during the pendency of trial.
4. It is argued by the learned counsel for the applicant that the prosecution under the Gangsters Act has been launched against the applicant on the basis of eighteen cases shown in the gang chart which has been explained in paragraph-13 of the affidavit filed in support of the bail application and out of those cases, in six cases, FIRs have been quashed by the Supreme Court; in three cases, charge-sheets have been quashed by this Court; and in seven cases the applicant is not named but investigation is pending against him though the charge-sheets have not been submitted against him. In another case of Gangsters Act, final report had been submitted

which has been accepted by the court concerned and one case under the Gangsters Act is pending. In support of his submission, learned counsel for the applicant has relied on the judgment in **Ramesh Rai Vs. State of UP, 2022 SCC OnLine All 836**. For ready reference, the relevant portion of the said judgment reads as under:-

"38. The applicant has already been granted bail in all the cases mentioned in the Gang-chart and in four other cases in which he is involved, he stands acquitted in four cases, the police has filed final reports in two cases and a complaint filed against him stands rejected and there is no material indicate that the larger interest of the public or the State would be affected in case the applicant is enlarged on bail.

39. Both the other co-accused persons have already been granted bail in the present case and the allegations leveled in the F.I.R. against all the accused persons are the same and, therefore, the applicant is entitled to claim his release on bail on the ground of parity also.

40. In view of the aforesaid discussion, without expressing any opinion on the merits of the case, this Court is of the view that the applicant is entitled to be released on bail."

5. Learned counsel for the applicant further contends that all the FIRs have been lodged from the year 2017 in District Saharanpur due to political rivalry for the reason that the applicant's father was Ex-MLC. The applicant was neither the member nor the leader of any gang. All the accused persons except three having similar role have been enlarged on bail by co-ordinate Benches of this Court vide orders dated; (i) 02.01.2023 passed in Criminal Misc. Bail Application No.47236 of 2022 (Javed Vs. State of UP); (ii) 10.11.2022 in Criminal Misc. Bail Application No.47225 of 2022 (Alishan Vs. State of UP); (iii) 03.01.2023 in Criminal Misc. Bail Application No.47211 of 2022 (Mahmood Ali Vs. State of UP);

14.11.2022 in Criminal Misc. Bail Application No.46849 of 2022 (Sanjay Vs. State of UP); 17.10.2022 in Criminal Misc. Bail Application No.46120 of 2022 (Abdul Rehman Vs. State of UP); 17.10.2022 in Criminal Misc. Bail Application No.45994 of 2022 (Rashid Vs. State of UP); and the order dated 17.10.2022 passed in Criminal Misc. Bail Application No.46265 of 2022 (Surendra Vs. State of UP). It is next contended that since the co-accused persons have already been enlarged on bail, the applicant is entitled to be enlarged on bail on the ground of parity also.

6. Learned AGA has vehemently opposed the bail application and referred the averments of the counter affidavit that the family background of the accused is criminal and he belongs to land grabbers family which has acquired about one thousand bigha land and has also constructed medical college. His family has also been involved in illegal mining and have purchased closed sugar mills of UP Sugar Corporation.

7. It has been averred by the counsel for the applicant that after this FIR was lodged, several other criminal cases were registered against the applicant without any basis. It is also averred that only general allegations have been levelled against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 28.02.2023. In case, the applicant is released on bail, he will not misuse the said liberty.

8. Considering the facts and circumstances of the case, in particular, that in nine cases either FIRs have been quashed by the Supreme Court or charge-sheets have been quashed by this Court; in seven cases the applicant is not named, only investigation is going on and no charge-sheet has been submitted; and in one case

relating to Gangsters Act, final report has been submitted which was accepted and except this case only one another case under the Gangsters Act is pending and the aforesaid judgment in **Ramesh Rai** (supra) relied on by the learned counsel for the applicant and the submissions made but without commenting on the merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

9. Let the applicant - **Wazid**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence;
- (iii) shall not pressurize the prosecution witnesses.

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

Order Date :- 30.10.2023
Shahroz