

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51646 of 2023

Applicant :- Gayyur And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicants, learned A.G.A. for the State 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. 284 of 2023 under Sections 2/3 of the U.P. Gangster & Prevention of Anti Social Activities Act, 1986 Police Station Nagal, District Saharanpur with the prayer to enlarge them on bail.
4. Learned counsel for the accused-applicants submitted that the applicants are innocent and has been falsely implicated in the instant case due to malafide intentions. According to gang-chart (Annexure No.2), single case has been registered against the accused-applicants in which they have been enlarged on bail. Copy of the bail order is annexed with the bail application and marked as Annexure No. 3 to the affidavit filed in support of the bail application. Apart from the case mentioned in the gang chart, the applicant No. 1 has criminal history of five cases and in all of them he has been enlarged on bail and copy of the bail orders are annexed as Annexure No. 4 to 7 of the affidavit filed in support of the bail application and Annexure No. S.A.1 to the supplementary affidavit; applicant No. 2 has criminal history of three cases and in all of them he has been enlarged on bail and copy of the bail orders are annexed as Annexure No. 7 to 9 of the affidavit filed in support of the bail application. Applicants are languishing in jail since 01.09.2023 and if he is granted the liberty of bail he will not misuse the same and

would cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer of bail but could not controvert the aforesaid arguments as advanced by learned counsel for the applicants.

6. Considering the facts and circumstances of the case and taking into account the fact that the accused-applicants have been enlarged on bail in the cases shown in the gang-chart, criminal history is well explained and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicants on bail.

7. Let applicants **Gayyur and Riyasat** be released on bail in the above case crime number and on his 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 he 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 their counsel. In case of his 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 misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against them, 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 applicants 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 them 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 :- 11.12.2023

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