

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10660 of 2021

Applicant :- Shailesh Yadav @ Vicky

Opposite Party :- State of U.P.

Counsel for Applicant :- Parmanand Gupta, Shipra Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Onkar Singh, learned Brief Holder of Sri G.D. Bhatt, learned A.G.A. for the State and perused record.
2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in FIR No.1074 of 2019 under Section 2/3 U.P. Gangsters & Anti-Social Activities (Prevention) Act, 1986, PS Madiayon, district Lucknow.
3. Learned counsel for the applicant has submitted that four cases have been shown against the applicant in the gang chart. He has submitted that the applicant has been granted bail in all the four cases. He has submitted that in the counter affidavit filed by the State, there were 7 cases in the gang chart against the applicant. However, later on, it has been informed that the applicant is involved in 38 cases.
4. Learned counsel for the applicant has filed bail orders of 25 other cases. However, he has not filed the bail orders of other 9 cases. He has submitted that the applicant has been granted bail in many of the cases but the order is not available. He has further submitted that the applicant is in Jail since 31.7.2019 in the present case and more than 4 years have passed which is a long incarceration period. He has mentioned this fact in para-3 and 6 of the supplementary affidavit dated 29.11.2023.
5. Learned counsel for the applicant has further submitted that the applicant shall not abscond and will fully cooperate in the proceedings. The applicant shall not tamper with the evidence nor influence the witnesses in any manner.
6. Learned A.G.A. though opposed the bail and has submitted

that the applicant has long criminal history but he could not dispute the fact that the applicant is in Jail for the last more than 4 years in the present case.

7. Considering over all facts and circumstances of the case, the material available on record, contents of F.I.R., other relevant documents, nature of offence, gang chart, the argument that the applicant is in Jail in the present case for the last more than 4 years which is a long incarceration period, the argument that the applicant has been granted bail in four cases shown in the gang chart, this Court finds that condition of Section 19 (4) of the Gangsters Act are properly complied with, the applicant is not guilty of such offence, therefore, he is entitled to be released on bail.

8. Let the applicant, Shailesh Yadav alias Vicky be released on bail in the above case crime number 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 applicant 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 applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant 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 applicant 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 applicant 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.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 11.12.2023

Rajneesh JR-PS)