

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11394 of 2023

Applicant :- Vishnu Gupta

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Mukul Kumar Sharma, Mohit Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved on behalf of the accused-applicant/**Vishnu Gupta** for grant of bail in Case Crime No.042 of 2021, under Section 2/3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Gauriganj, District Amethi during pendency of trial.

3. Learned counsel for accused-applicant while pressing the bail application submits that the accused-applicant has been falsely implicated in the instant case as well as in the two cases mentioned in the gang chart. However, in all these cases mentioned in the gang chart, he has been released on bail and the bail orders with regard to these two cases have been placed as Annexure No. 3 collectively to the bail application.

4. He further submits that apart from the above mentioned two cases, the complicity of the applicant is also shown with regard to other forty-seven criminal cases, however, in one of such case, bearing crime no.0268 of 2021, pertaining to police station Gomti Nagar, Lucknow closure/final report has been submitted by the investigating officer, while in rest of the cases, the applicant has been granted bail by the trial court and copies of these bail orders have also been placed as Annexure No.5 collectively to the bail applicant and bail orders passed by the coordinate Bench in Criminal Misc. Bail Application Nos.10904 of 2023, 11845 of 2023, 11116 of 2023 and 12260 of 2023 respectively with regard to four criminal cases have been placed before this Court for perusal.

5. It is further submitted that apart from the above mentioned cases, the applicant is not involved in any other criminal case. It is also submitted that the applicant is in jail in this matter since

20.09.2020 and having regard to the fact that only on the basis of two criminal cases, the provisions of Gangster Act has been invoked against the applicant and the material which has been made the basis of lodging the first information report in this case is not sufficient enough to raise a presumption that the applicant is either guilty of the offences mentioned in the gang chart or may commit the same offences again if the facility of bail is granted to him. It is also submitted that the criminal history of the applicant is with regard to identical cases and only fault of the applicant is that he is brother of Ajit Kumar Gupta, who was running various companies and the applicant was not directly involved in any of the cases pertaining to which FIRs have been lodged. It is also highlighted that the applicant has been granted bail in all the cases after considering his criminal history. It is also submitted that the appropriate authority, while approving the gang-chart, has not taken into consideration/account the other criminal cases pending against the applicant and on account of two cases, mentioned in the gang-chart, the provisions of the Gangsters Act have been invoked and, therefore, the criminal history of the other cases, except the two cases mentioned in the gang-chart, have no bearing on the fate of this bail application.

6. Learned A.G.A. opposes the prayer for bail of the applicant, but could not confront the factual submissions made by the learned counsel for the accused-applicant.

7. Having heard learned counsel for the parties and having perused the record, it is evident that the provisions of Gangsters Act has been invoked against the applicant on the basis of two cases mentioned in the gang chart, however, in all the cases mentioned in the gang chart he has been released on bail by trial court and apart from the above mentioned two cases, the complicity of the applicant is stated to be shown in other forty-seven criminal cases, wherein also he has been granted bail by trial court as well as coordinate Bench of this Court and apart from the above mentioned cases, the applicant is not involved in any other criminal case. The applicant is in jail in this case since 20.09.2023. Nothing has been brought on record, which may suggest that the facility of bail granted by the trial court pertaining to the offences mentioned in the gang chart has been challenged at any higher forum or has been cancelled by any superior court. Since the appropriate authority, while approving the gang-chart, has not taken into consideration/account the other criminal cases pending against the applicant and on account of two cases, mentioned in the gang-chart, the provisions of the Gangsters Act have been invoked, the criminal history of the other cases would have no bearing on the fate of this bail application. The presence of the applicant could be

secured before the trial court by placing adequate conditions/restrictions.

8. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is **allowed**.

9. Let the accused-applicant/**Vishnu Gupta** involved in aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

12. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression of this Court on the merits of the case.

.

[Mohd. Faiz Alam Khan,J.]

Order Date :- 16.11.2023
MVS/-