

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11333 of 2023

Applicant :- Jimmy Alias Mohd. Ahmad

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

Counsel for Applicant :- Nijam Ahamad

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instruction in the matter including up-to-date case diary.

2. Heard Shri Nijam Ahamad, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

3. This bail application has been moved on behalf of the applicant/**Jimmy Alias Mohd. Ahmad** for grant of bail, in Case Crime No. 01 of 2023, under Section 3(1) U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 Police Station Jalalpur, District Ambedkar Nagar, during pendency of trial.

4. 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 single case mentioned in the gang chart. However, in the single case mentioned in the gang chart, the applicant has been released on bail by the trial Court, a copy of which has been placed at Annexure No.3 to the bail application.

5. It is further submitted that apart from the aforementioned single criminal case, applicant is having criminal history of six cases and the same has been explained in para no.22 of the bail application. It is also submitted that out of these six cases the applicant is on bail in five cases and with regard to 6th case i.e. Case Crime No. Nil of 2019, under Section 3/4 of U.P. Control of Goonda Act, Police Station Maharajganj, District Ayodhya, the same has become infructuous by efflux of time. However, due to want of knowledge in the affidavit enclosed with the bail application, it has been written by mistaken that the deponent is not having any knowledge about that case.

6. It is further submitted that in Case Crime No. 310 of 2018,

under Section 3/25 of Arms Act, Police Station Maharajganj, District Faizabad, the applicant is on bail but even after sincere efforts the bail order of that case could not be obtained. However, it is stated on oath that the applicant is also on bail in that case.

7. It is next submitted that applicant is in jail in this matter since 03.04.2023 and there is no apprehension that, if the facility of bail is granted to the applicant, he may flee from the course of law or will not appear before the court below, as also the evidence/material available on record is not strong enough to raise a presumption that the applicant is guilty of the offences mentioned in the gang chart.

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

9. Having heard learned counsel for the parties and having perused the record, it is transpired from the record that applicant is involved in the single case mentioned in the gang chart. However, in the single case mentioned in the gang chart, applicant has been released on bail by the trial Court. Apart from the above-mentioned case, applicant is also shown involved in six other cases, however, out of these six cases, in five cases he has been granted bail and the 6th case has become infructuous by efflux of time. Applicant is in jail in this matter since 03.04.2023 and the presence of the applicant may be secured before the trial court by placing adequate conditions.

10. 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 thus **allowed**.

11. Let the applicant/**Jimmy Alias Mohd. Ahmad** involved in above-mentioned case, be released on bail on his 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 along with this order shall present before the Special Court. any proof pertaining to the fact that the applicant has obtained bail in Case Crime No. 310 of 2018, under Section 3/25 of Arms Act, Police Station Maharajganj, District Faizabad, failing which, the Special Court shall not be obliged to honour this order.

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

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

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

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

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

14. 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 on the merits of the case.

Order Date :- 17.10.2023

Praveen