

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11929 of 2023

Applicant :- Arun Rai

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

Counsel for Applicant :- Atul Verma, Akhilendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. In view of the earlier order of this Court dated 06.10.2023 a report has now been submitted by the office stating therein that the matter is not related to the designated Bench of M.P./M.L.A./M.L.C.

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

3. Heard Shri Atul Verma, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

4. This bail application has been moved on behalf of the applicant/**Arun Rai** for grant of bail, in Case Crime No. 97 of 2022, under Section 2/3 U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 Police Station Hazratganj, District Lucknow, during pendency of trial.

5. 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 a co-ordinate Bench of this Court, a copy of which has been placed at Annexure No.8 (Page No.85) to the bail application.

6. It is further submitted that apart from the aforementioned single criminal case, the applicant is also having criminal history of 11 other cases, however, in these cases also the applicant has been granted bail by competent criminal Courts and copies of the bail orders with regard to these cases have been placed as Annexure Nos. 3 to 7 to the instant bail application as well as Annexure Nos. SA-1 to SA-4 to the supplementary affidavit of date 03.10.2023.

7. It is further submitted that though, the State has not alleged Case Crime No. 219 of 2018, under Section 307 I.P.C., Police Station Kotwali, District Azamgarh as the criminal history of the applicant, but in the rejection order of the Special Court this case has been mentioned. However, this case is not related to the applicant nor any summon or process of any competent Court has ever been received with regard to this case.

8. It is also submitted that identically placed co-accused persons, namely, Amit Mishra, Sunil Gurjar, Akhilesh Kumar @ A.K. Rajeev, Praveen Raghav, Lokesh Mishra @ Lavkush Mishra, Mahendra Tiwari, Umesh Kumar Mishra, Arvind Sen, Sachin Verma and Tripuresh Pandey @ Rinku have been granted bail by coordinate Benches of this court as well as by this Court, vide orders dated 14.09.2023, 17.1.2023, 16.3.2023, 16.2.2023, 28.1.2023, 24.1.2023, 23.6.2023, 19.5.2023, 29.6.2022 and 11.8.2023 passed in Criminal Misc. Bail Application Nos. 10895 of 2023, 853 of 2023, 3679 of 2023, 2374 of 2023, 1414 of 2023, 1190 of 2023, 7447 of 2023, 6564 of 2023, 6926 of 2022 and 10175 of 2023, respectively.

9. It is further submitted that applicant is in jail in this matter since 29.04.2022 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.

10. 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.

11. 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 a co-ordinate Bench of this Court. Apart from the above-mentioned case, applicant is also shown involved in 11 other cases and in these cases also he has been granted bail by competent criminal Courts. It has been admitted on behalf of the State that so far as the instructions received in this case, Case Crime No. 219 of 2018, under Section 307 I.P.C., Police Station Kotwali, District Azamgarh is not shown against the applicant. Identically placed co-accused persons, namely, Amit Mishra, Sunil Gurjar, Akhilesh Kumar @ A.K. Rajeev, Praveen Raghav, Lokesh Mishra @ Lavkush Mishra, Mahendra Tiwari, Umesh Kumar Mishra, Arvind Sen, Sachin Verma and Tripuresh Pandey @ Rinku have been

granted bail by coordinate Benches of this court as well as by this Court. Applicant is in jail in this matter since 29.04.2022 and the presence of the applicant may be secured before the trial court by placing adequate conditions.

12. 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**.

13. Let the applicant/**Arun Rai** 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 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.

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

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

16. 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 :- 10.10.2023

Praveen