Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12085 of 2023

Applicant :- Guddu Vishvakarma
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Civil Sectt. Lko
Counsel for Applicant :- Sanat Singh
Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and Sri Rajesh Kumar Singh, learned A.G.A. for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No. 0369 of 2022 under section 3(1) U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Masauli, District Barbanki.

3.Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. He is not a member of any criminal gang. As per the gang chart, only one case has been shown against the applicant in which the applicant has been enlarged on bail, a copy of which has been annexed as annexure no.3 to the affidavit filed in support of the bail application. He has also submitted that the applicant has criminal no history except the case shown in the gang chart. Yashwant Rawat, Santosh Kumar Yadav, Himanshu Gupta, Sain Tiwari @ Saim Tiwari @ Surjit Tiwari, Malti Devi, Arvind Singh, Shivendra Singh, Nandani Vishwakarma have already been granted bail by coordinate Bench this Court vide order dated 25.07.2023, 05.05.2023, 31.05.2023, 19.09.2023, 13.09.2023, 03.03.2023, 13,09.2023, 31.05.2023 passed in Criminal Misc. Bail Application Nos.9328 of 2023, 5969 of 2023, 7365 of 2023, 11242 of 2023, 11146 of 2023, 3330 of 2023, 11164 of 2023 and 7209 of 2023 respectively. Lastly, it is contended by the learned counsel for applicant 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. The applicant is in jail since 05.09.2023.

4. Learned A.G.A. has opposed the prayer for bail but could not dispute the aforesaid fact.

5. Considering the submissions of learned counsel for the parties, material available on record, contents of F.I.R., other relevant documents, nature of offence, gang chart, the argument of incarceration period in jail since 05.09.2023, the argument that only one case shown in the gang chart in which the applicant has been granted bail, this Court finds that condition of Section 19(4) of the Gangster Act are properly complied with, as well as the fact that co-accused Yashwant Rawat, Santosh Kumar Yadav, Himanshu Gupta, Sain Tiwari @ Saim Tiwari @ Surjit Tiwari, Malti Devi, Arvind Singh, Shivendra Singh, Nandani Vishwakarma have already been granted bail by this Court,therefore, he is entitled to be released on bail.

6. Let the applicant, namely, **Guddu Vishvakarma**, 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.

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 :- 10.10.2023
dk/

Digitally signed by :-
DEVENDRA KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench