

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12236 of 2023

Applicant :- Jabar Mohammad And Another

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

Counsel for Applicant :- Iqbal Ali

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Sri Iqbal Ali, learned counsel for the applicants and Sri Diwakar Singh, learned A.G.A. for the State.

2. The present bail application has been filed by the applicants with a prayer to enlarge them on bail in Case Crime No.217 of 2023, under sections 2(B)(1)/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Pasgawan, District Lakhimpur Kheri.

3.Learned counsel for the applicants contends that both the applicants have been falsely implicated in the instant case. They are not a member of any criminal gang. As per the gang chart, only one case has been shown against the applicants in which both 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 applicants have no criminal history except the case shown in the gang chart. Lastly, it is contended by the learned counsel for applicants that the applicants shall not abscond and will fully cooperate in the proceedings. The applicants shall not tamper with the evidence nor influence the witnesses in any manner. The applicants are in jail since 12.09.2023.

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 12.09.2023, the argument that only one case shown in the gang chart, the applicants have been granted bail, this Court finds that condition of Section 19(4) of the Gangster Act are properly complied, therefore, applicant are entitled to be released on bail.

6. Let the applicants, namely, **Jabar Mohammad and Vakeel Ahmad**, be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they

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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants are 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 them 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 :- 13.10.2023

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