

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12469 of 2023

Applicant :- Manish Tiwari

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

Counsel for Applicant :- Sunil Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned AGA informs that he has procured complete instructions in the matter including up to date case diary.

2. Heard Shri Sunil Kumar Singh, 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 by the accused/applicant- Manish Tiwari for grant of bail, in FIR No. 0394/2022, under Section 2/3 of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Gomti Nagar, District Lucknow, during trial.

4. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case as well as in the three cases mentioned in the gang chart on the basis of which provision of Gangsters Act has been invoked. However, in these three cases mentioned in the gang chart, the applicant has been granted bail by a Coordinate Bench of this Court, vide orders dated 4.10.2023, 20.9.2023 and 25.8.2023 passed in CrI. Misc. Bail Application Nos. 11800 of 2023, 11300 of 2023 and 10681 of 2023, respectively and the copies of bail orders pertaining to these cases mentioned in the gang chart are placed on record as Annexure Nos.5, 6 and 7 to the bail application.

5. It is further submitted that apart from the above three cases mentioned in the gang chart, the applicant is not involved in any other criminal case and he in this case, is detained in prison since 11.01.2023 and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty. Otherwise also the allegations levelled in the First Information Report of the instant case are not sufficient enough to attract a presumption that the applicant is either guilty of the offences mentioned in

the gang chart or may commit the same offences again as described in the gang chart. Identically placed co-accused persons, namely, Harmita Tiwari has been granted bail by a Coordinate Bench of this Court, vide order dated 16.6.2023 passed in Crl. Misc. Bail Application No. 7737 of 2023.

6. Learned A.G.A. on the other hand submits that the applicant is accused of committing heinous offence and therefore, he is not entitled to be released on bail.

7. Having heard learned counsel for the parties and having perused the record, it is transpired from the record that the applicant has been involved in this case on the basis of three criminal cases mentioned in the gang chart and in these cases the applicant has been granted facility of bail by a Coordinate Bench of this Court. Apart from the three cases mentioned in the gang chart the applicant is not involved in any other criminal case. Identically placed co-accused person, namely, Harmita Tiwari has been granted bail by a Coordinate Bench of this Court. The applicant is in jail in this case since 11.01.2023 and his presence may be secured before the trial court by placing adequate conditions.

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 and demerits 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 applicant- Manish Tiwari involved in the 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 are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 19.10.2023

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