Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12505 of 2023

Applicant :- Sewan Kumar
Opposite Party :- State Of U.P. Thru.Prin.Secy. Home
Counsel for Applicant :- Rajesh Kumar Singh,Rakesh Kumar
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 Rakesh Kumar, 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- Sewan Kumar for grant of bail, in case Crime No. 0432/2023, under Section 3(1) of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Mohammadpur, District Barabanki, 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 two cases mentioned in the gang chart on the basis of which provision of Gangsters Act has been invoked. However, in these two cases mentioned in the gang chart, the applicant has been granted bail by the Sessions Judge, Barabanki, vide orders dated 16.8.2023 and 24.08.2023 passed in Bail Application Nos. 3951of 2023 and 370/2023, respectively and the copies of bail orders pertaining to these two cases mentioned in the gang chart are placed on record as Annexure Nos. 2 and 3 to the bail application.

5. It is further submitted that apart from the above single case 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 03.08.2023 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.

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 two criminal cases mentioned in the gang chart and in these cases the applicant has been granted facility of bail by the Sessions Judge, Barabanki. Apart from these two cases mentioned in the gang chart the applicant is not involved in any other criminal case. The applicant is in jail in this case since 03.08.2023 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- Sewan Kumar 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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Digitally signed by :-
MOHD UMAR KHAN
High Court of Judicature at Allahabad,
Lucknow Bench