

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12444 of 2023

Applicant :- Aditya Gupta

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

Counsel for Applicant :- Prashant Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Prashant Shukla, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Aditya Gupta** for grant of bail, in Case Crime No. 444 of 2021, under Sections 302, 394, 307, 411 and 34 I.P.C., Police Station Kotwali Nagar, District Pratapgarh, during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication and after lodging of the first information report, the statement of the informant was recorded under Section 161 Cr.P.C., wherein he has stated that the offence has been committed by some identified miscreants. In the statement of other injured person namely Rajjan, it is stated that he could identify the miscreants and had also taken the name of the instant applicant and other co-accused persons. However, during the course of trial before the trial Court his statement has been recorded wherein he did not support the prosecution version and had become hostile and has stated that he could not identify any of the offender.

4. It is further submitted that when the star witness of this crime namely Rajjan has not supported the prosecution version, there is no chances of conviction of the applicant. Moreover, identically placed co-accused persons namely Puneet Prajapati, Mohd. Aakil, Abhay Singh Alias Abhi Rajpoot and Parvez have been granted bail by co-ordinate Benches of this Court as well as by this Court, vide orders dated 12.05.2023, 01.05.2023, 28.04.2023 and 10.07.2023 passed in Criminal Misc. Bail Application Nos. 6220 of 2023, 773 of 2023, 87 of 2022 and 2462 of 2023.

5. It is also submitted that criminal history of the applicant

comprising of five cases has been explained in Para No. 12 of the supplementary affidavit dated 24.11.2023 and Para No.33 of the bail application. The applicant is languishing in jail in this case since 10.06.2021 and having regard to the pendency of cases before the trial Court, the trial of the case is not expected to conclude in near future and there is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

6. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, he is not entitled to be released on bail, but could not confront the submissions raised by learned counsel for the applicant with regard to the fact that identically placed co-accused persons namely Puneet Prajapati, Mohd. Aakil and Abhay Singh Alias Abhi Rajpoot have been granted bail by co-ordinate Benches of this Court.

7. Having heard learned counsel for the parties and having perused the record, it is evident that identically placed co-accused persons namely Puneet Prajapati, Mohd. Aakil, Abhay Singh Alias Abhi Rajpoot and Parvez have been granted bail by co-ordinate Benches of this Court as well as by this Court. One of the star witness namely Rajjan has been testified before the trial Court and has become hostile and he has not identified the applicant or any other co-accused persons, as the miscreants in his statement recorded before the trial Court. Nothing has been brought in the knowledge of this Court which may suggest that the bail orders whereby the identically placed co-accused persons have been granted bail by co-ordinate Benches of this Court, as has been challenged at any higher forum. Applicant is languishing in jail in this case since 10.06.2021. Criminal history of the applicant has been adequately explained and the presence of the applicant 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 of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus allowed.

9. Let the accused/applicant- **Aditya Gupta** 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.

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 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 :- 21.12.2023

Gurpreet Singh