Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12599 of 2023

Applicant :- Atif
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.
Counsel for Applicant :- Arvind Yadav,Poonam Saroj
Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary.

2. Heard 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 on behalf of the applicant/**Atif** for grant of bail, in Case Crime No.0255 of 2023, under Section 3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 Police Station Kothi, District Barabanki, during pendency of trial.

4. Learned counsel for accused-applicant while pressing the bail application submits that the accused-applicant has been falsely implicated in the instant case as well as in the single case mentioned in the gang chart and he has not committed any offence as claimed by the prosecution.

5. It is further submitted that in the single case mentioned in the gang chart, the applicant has been released on bail by the trial court, a copy of which has been placed as Annexure No.4 to this bail application and apart from single case mentioned in the gang chart, the complicity of the applicant is also shown with regard to another criminal case, however, in that case also, he has been granted bail by trial court. A copy of bail order has also been placed on record and apart from the above mentioned case, the applicant is not involved in any other criminal case.

6. It is also submitted that the applicant is in jail in this matter since 21.08.2023 and only on the basis of single criminal case, the provisions of Gangster Act has been invoked against the applicant and the material which has been made the basis of lodging the first information report in this case is not sufficient enough to raise a presumption that the applicant is either guilty of the offences mentioned in the gang chart or may commit the

same offences again if the facility of bail is granted to him.

7. Learned A.G.A. opposes the prayer for bail of the applicant, but could not confront the factual submissions made by the learned counsel for the accused-applicant.

8. Having heard learned counsel for the parties and having perused the record, it is evident that the provisions of Gangsters Act has been invoked against the applicant on the basis of single case mentioned in the gang chart, however, in the case mentioned in the gang chart he has been released on bail by trial court and apart from the above mentioned case, the complicity of the applicant is stated to be shown in another criminal case, wherein also he has been granted bail by trial court and apart from the above mentioned cases, the applicant is not involved in any other criminal case. The applicant is in jail in this case since 21.08.2023. Nothing has been brought on record, which may suggest that the facility of bail granted by trial court pertaining to the offences mentioned in the gang chart has been challenged at any higher forum or has been cancelled by any superior court. The presence of the applicant could be secured before the trial court by placing adequate conditions/restrictions.

9. Having regard to the overall facts and circumstances of the case and keeping in view the submissions made by learned counsel for the applicant I find substance only for the purpose of releasing the applicant on bail. The bail application is, thus, **allowed**.

10. Let the applicant/**Atif** involved in the aforesaid 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.

11. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

12. Identity, status and residence proof of the applicant and

sureties be verified by the court concerned before the bonds are accepted.

13. 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 of this Court on the merits of the case.

Order Date :- 27.10.2023
Anupam S/-

Digitally signed by :-
ANUPAM SINGH PATEL
High Court of Judicature at Allahabad,
Lucknow Bench