Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12590 of 2023

Applicant :- Hasim Ali
Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home U.P. Lko.
Counsel for Applicant :- Arvind Kumar Tiwari
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 accused-applicant/**Hasim Ali** for grant of bail, in Case Crime No.126 of 2023, under Section 3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 Police Station Naveen Modern Police Thana, District Shrawasti 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 two cases mentioned in the gang chart. However, in all these cases mentioned in the gang chart, he has been released on bail and the bail orders with regard to these two cases have been placed as Annexure Nos.3 and 4 to this bail application and apart from the above mentioned cases, the applicant is not involved in any other criminal case.

5. It is also submitted that the applicant is in jail in this matter since 02.08.2023 and having regard to the fact that only on the basis of two criminal case(s), 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.

6. 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.

7. 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 two cases mentioned in the gang chart, however, in all the cases mentioned in the gang chart he has been released on 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 02.08.2023. 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.

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 **allowed**.

9. Let the accused-applicant/**Hasim Ali** involved in 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 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 :- 19.10.2023
Anupam S/-

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