

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12667 of 2023

Applicant :- Mohd. Mohsin

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

Counsel for Applicant :- Ashish David Rao, Shakti Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned A.G.A. informs that she has procured complete instructions in the matter including the case diary and the criminal history of the applicant and charge sheet in this case has already been submitted.
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/Mohd. Mohsin** for grant of bail, in Case Crime No. 289 of 2022, under Section 3(1) U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986 Police Station Haidergarh, 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. However, in that case the applicant has been granted bail vide order dated 23.10.2021 passed in Bail No. 4261 of 2021, a copy of which has been placed at Annexure No.4 to the bail application. It is further submitted that though in the instructions forwarded by the concerned authority only one criminal case is alleged as criminal history of the applicant but he is having criminal history of 17 cases and the same has been explained in para-13 of the bail application and in all these cases also the applicant has been granted bail and the bail orders pertaining to these cases have also been placed at annexure no.6 from page no. 63 onwards.
5. It is further submitted that apart from the aforementioned cases, the applicant is not having any other criminal case

pending against him. Charge sheet in this case has already been filed 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, otherwise also the material which has been collected by the informant in order to invoke the provision of Gangsters Act is not sufficient enough to raise a presumption that the applicant is either guilty of the offences mentioned in the gang chart or he may commit the same offences again.

6. Learned A.G.A. opposes the prayer for bail and submits that in the instructions given by the concerned police station only one case is being shown as criminal history of the applicant.

7. Having heard learned counsel for the parties and having perused the record, it is transpired that on the basis of single case mentioned in the gang chart, the provisions of the Gangster Act have been invoked against the applicant. In that case the applicant has been granted bail by this Court. The other criminal cases which have been explained by the applicant as his criminal history have not been taken into cognizance by the concerned authorities while approving the gang chart. However, in these cases also the applicant has been granted bail by the competent criminal courts. Nothing has been brought before this Court which may suggest that the bail orders placed on record with regard to cases mentioned in the gang chart or the cases which are shown as criminal history of the applicant, have been challenged at any higher forum or have been cancelled by the courts which have granted bail. Applicant is in jail in this matter since 13.03.2023 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 **applicant/Mohd. Mohsin** 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 :- 30.10.2023

Renu/-