Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12841 of 2023

Applicant :- Resham Singh
Opposite Party :- State Of U.P Thru. Prin. Secy. Home Govt. Civil Secrt. Lko.
Counsel for Applicant :- Ramakar Shukla,Subodh Kumar Pandey
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/**Resham Singh** for grant of bail, in Case Crime No.190 of 2023, under Section 2(b)(2)/3 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Tikuniya, District Lakhimpur Kheri 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 four 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 four cases have been placed as Annexure Nos.3, 4, 5 and 6 to this bail application.

5. He further submits that apart from these four cases, the complicity of the applicant is also shown with regard to another criminal case(s), however, in this case also, he has been granted bail by trial court. A copy of this bail order has also been placed as Annexure No.S.A.-1 of the supplementary affidavit dated 28.10.2023 and apart from the above mentioned cases, 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 10.09.2023 and having regard to the fact that only on the basis of four 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.

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 four 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 four cases, 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 10.09.2023. 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. 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**.

10. Let the accused-applicant/**Resham Singh** 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.

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 :- 1.11.2023
Anupam S/-

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