Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12847 of 2023

Applicant :- Vikram Lodh
Opposite Party :- State Of U.P. Thru.The Prin. Secy. Home Lko.
Counsel for Applicant :- Arshad Siddiqui
Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri G.D. Bhatt, learned A.G.A. for the State and perused record.

Supplementary affidavit filed today is taken on record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.0511 of 2023 under Section 3 (1) of U.P. Gangster and Anti-Social Activities Prevention Act, 1986, PS Kotwali Nagaar, district Barabanki.

3. Learned counsel for the applicant has submitted that on the basis of single case, gang chart has been prepared against the applicant and Gangsters Act has been imposed. He has submitted that in the said case, the applicant has been granted bail copy of which has been annexed collectively as Annexure No.3. He has submitted that there is no other case against the applicant. He has further submitted that the applicant shall not abscond and will fully cooperate in the proceedings. The applicant shall not tamper with the evidence nor influence the witnesses in any manner. He has submitted that the applicant is in Jail since 18.8.2023.

4. However, on the basis of instructions, learned A.G.A has submitted that there are two cases pending against the applicant.

5. Learned counsel for the applicant has filed supplementary affidavit and in para-3 of the supplementary affidavit, he has mentioned that case crime No.146 of 2021 under Section 147, 323, 504, 506, 452 IPC PS Fatehpur, district Barabanki is not related to the applicant and he has annexed questionnaire as Annexure No.SA-1 to the supplementary affidavit. He has further explained criminal history of the applicant in case crime No.72 of 2013 under Section 147, 323, 394, 427, 452, 504, 506 IPC PS, Badosaray district Barabanki and has submitted that in the said case, the applicant has not received any type of notice by the police authorities nor any type of summon, warrant from the concerned Court and he is not involved in the above mentioned cases.

6. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts and the fact that the applicant is on bail in the cases shown

against him in the gang chart.

7. Considering over all facts and circumstances of the case, the argument that the applicant has been granted bail in the single case shown in the gang chart and has also explained criminal history of the applicant in para-3 of supplementary affidavit, this Court finds that condition of Section 19 (4) of the Gangsters Act are properly complied with, the applicant is not guilty of such offence, therefore, he is entitled to be released on bail.

8. Let the applicant, Vikram Lodh be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 3.11.2023
Rajneesh JR-PS)

Digitally signed by :-
RAJNEESH KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench