Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12994 of 2023

Applicant :- Amar Bahadur Nishad
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lucknow
Counsel for Applicant :- Sanjay Singh Chauhan,Saggir
Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Diwakar Singh, 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.433 of 2020 under Section 2/3 of U.P. Gangster and Anti-Social Activities Prevention Act, 1986, PS Shivgarh district Rae Bareli.

3. Learned counsel for the applicant has submitted that on the basis of two cases, gang chart has been prepared against the applicant and Gangsters Act has been imposed. He has submitted that in the said cases, the applicant has been granted bail copies of which have been annexed collectively as Annexure No.3 and 4. He has explained criminal history of one case against the applicant in para-3 of the supplementary affidavit filed today and in the said case the applicant has been granted bail, copy of bail order has been annexed as Annexure No.SA-1 to the bail application. He has submitted that there is no criminal case against the applicant. He has further submitted that co-accused Raju Nishad @ Shiv Bahadur in Bail No.2850 of 2021 on 10.3.2021, co-accused Mainuddin in Bail No.9087 of 2021 on 26.8.2021mand co-accused Akash Tiwari in Bail No.5107 of 2021 on 22.6.2021 have been granted bail by this Court, copies of which have been produced by the learned counsel for 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 further submitted that the applicant has no other criminal history and he is in jail since 22.2.2020.

4. Learned A.G.A. though 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 and co-accused have been granted bail.

5. Considering over all facts and circumstances of the case, the material available on record, contents of F.I.R., other relevant documents, nature of offence, gang chart, the argument that applicant is on bail in the cases shown against him in the gang chart, the argument that co-accused have been granted

bail, 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.

6. Let the applicant, Amar Bahadur Nishad 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.

7. 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