

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13258 of 2023

Applicant :- Shivam Kumar

Opposite Party :- State Of U.P. Thru . Prin. Secy. Home Civil Sectt. Lko

Counsel for Applicant :- Dhruvendra Kumar Singh

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 up-to-date case diary. Thus, it appears that on the basis of material placed on record, the bail plea of the applicant may be adjudicated.
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 by the accused/applicant- **Shivam Kumar** for grant of bail in Case Crime No.0100 of 2023, under Section 2/3(1) U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 lodged at Police Station Haliyapur, District Sultanpur, during trial.
4. Learned counsel for the accused-applicant, while pressing the bail application, submits that the applicant has been falsely implicated in this case as well as in the single case mentioned in the gang-chart, however, in the single, case mentioned in the gang-chart, the applicant has been enlarged on bail by the trial Court and copy of the bail order has been placed as Annexure-3 to the bail application. It is further submitted that apart from the above mentioned single case, the applicant has also been shown involved in another criminal case and in that case also, he has been enlarged on bail by the trial Court and the bail order pertaining to this case has been placed on record as Annexure-4 to the bail application. It is also submitted that the applicant has been languishing in jail in this case since 29.08.2023 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.

5. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed a heinous offence and, therefore, he is not entitled to be released on bail.

6. Having heard learned counsel for the parties and having perused the record, it is reflected that on the basis of a single criminal case the provisions of the Gangsters Act have been invoked against the applicant, however, in that case the applicant has been enlarged on bail by the trial Court. Criminal history of one case has been alleged, however, in that case also, the applicant has been enlarged on bail by the trial Court. The applicant has been languishing in jail in this case since 29.08.2023. The presence of the applicant may be secured before the trial court by placing adequate conditions.

7. 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**.

8. Let the accused/applicant- **Shivam Kumar** 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.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are

accepted.

11. 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.

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[Mohd. Faiz Alam Khan, J.]

Order Date :- 7.11.2023

MVS/-