

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13365 of 2023

Applicant :- Pawan Kumar Pandey

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Home, Lucknow

Counsel for Applicant :- Indra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Learned AGA informs that he has procured complete instructions in the matter including up to date case diary and the charge sheet in this case has already been submitted.
2. Heard Shri Indra Pratap Singh, 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- Pawan Kumar Pandey for grant of bail, in case Crime No. 186/2022, under Section 3(1) of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Patranga, District Faizabad, during trial.
4. Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case as well as in the four cases shown in the gang chart, however, in all these cases on the basis of which provision of Gangsters Act has been invoked, has been granted bail by the coordinate benches of this court and the copies of bail orders pertaining to these cases are placed on record as Annexures No. 3,4,5 and 6 of the bail application.
5. It is further submitted that apart from the above mentioned four cases, criminal history of two other cases has been shown, however, in one of such case the applicant has been granted bail by the coordinate bench of this court and the bail order with regard to that case has been placed on record as Annexure No. 7 to the bail application and so far as the 6th case with regard to the case Crime No. 449/2011 is concerned, the applicant is not having any concern with the same as the applicant is not an accused in this case nor he has received any process by the trial court pertaining to this case till now.

6. It is further submitted that the applicant is in jail in this case since 14.10.2022 and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty. Otherwise also the allegations levelled in the First Information Report of the instant case are not sufficient enough to attract a presumption that the applicant is either guilty of the offences mentioned in the gang chart or may commit the same offences again as described in the gang chart.

7. Learned A.G.A. on the other hand submits that the applicant is accused of committing heinous offence and therefore, he is not entitled to be released on bail.

8. Having heard learned counsel for the parties and having perused the record, it is transpired from the record that the applicant has been involved in this case on the basis of four criminal cases mentioned in the gang chart and in these cases he has been granted bail by the coordinate benches of this court and copies of bail orders of these cases are placed on record as Annexures no. 3,4,5 and 6 to the bail application. Apart from these two cases the applicant is shown involved in other two cases, however, in one of such case the applicant has been granted bail by the coordinate bench of this court and the copy of the bail order with regard to that case has been placed as Annexure No.7 to the bail application and so far as the sixth case with regard to case Crime No.449 of 2011 is concerned, the applicant is not having any concern with same as the applicant is not an accused in this case nor he has received any process by the trial court pertaining to this case till now. The applicant is in jail in this case since 14.10.2022. His presence may be secured before the trial court by placing adequate conditions.

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 and demerits 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 applicant- Pawan Kumar Pandey involved in the 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 are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

14. It is clarified that if it is shown before the trial court that any of the statement made on behalf of applicant by learned counsel for the applicant mentioned in the order is found untruthful, the trial court would be at liberty to cancel the facility of bail granted by this Court.

Order Date :- 8.11.2023

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