

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13670 of 2023

Applicant :- Mujeeb Ahmad

Opposite Party :- State Of U.P Addil. Chief Secy./ Prin. Home Civil Sectr. Lko.

Counsel for Applicant :- Nadeem Murtaza, Arun Sinha, Wali Nawaz Khan

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Learned A.G.A. informs that she has procured complete instructions in the matter including up-to-date/complete case diary and charge sheet has also been filed.
2. Heard Shri Arun Sinha assisted by Shri Nadeem Murtaza, learned counsels 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 applicant/Ahmad - **Mujeeb Ahmad** for grant of bail, in Case Crime No. 03 of 2021, under Section 2/3 of U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 Police Station Kotwali, District Sitapur, 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 two criminal cases mentioned in the gang chart. However, out of these two cases on the basis of which the provisions of Gangster Act has been invoked against the applicant, the proceedings pertaining to Case Crime No. 779 of 2020 has been stayed by a co-ordinate Bench of this Court and in another case he has been acquitted by the Trial Court and the relevant orders with regard to these cases have been placed at Page No. 60 and 74 of the paper book, respectively.
5. It is further submitted that apart from the above-mentioned two cases, the criminal history of 27 cases is shown against the applicant. However, out of these 27 cases, in 14 cases the applicant has been acquitted by the competent criminal Courts and in 09 cases he has been granted the facility of bail and anticipatory bail. by the trial Courts and by a co-ordinate Bench of this Court. The relevant orders with regard to these cases

have been placed on record and in two cases which are pertaining to the Goonda Act, the proceedings have been quashed and in two cases the applicant has not been charge sheeted.

6. It is further submitted that the investigating officer has made a 'mockery' of the investigation, as he has submitted the charge sheet on the same day whereon the F.I.R. was lodged and in fact the charge sheet has been submitted without making any investigation. The attention of this Court was drawn on the bail order of co-accused person namely, Aklakh Ahmad @ Haseen Ahmad, vide order dated 12.03.2021 passed in Criminal Misc. Bail Application No. 2933 of 2021, wherein while granting the facility of bail to the co-accused, the co-ordinate Bench had taken into cognizance the fact that the charge sheet has been filed on the same day, whereon the F.I.R. was lodged and had directed the concerned Circle Officer of the Police to file personal affidavit explaining the circumstances wherein the charge sheet has been filed the same day. Identically placed co-accused person Ahmad Hussain alias Channu has also been granted the facility of bail by this Court, vide order dated 23.08.2023 passed in Criminal Misc. Bail Application No. 10555 of 2023 and a copy of that order has been placed on record at Page No. 122 of the paper book.

7. It is further submitted that the applicant is having enmity with the local police personnels and it is on account of the same the applicant has been involved in many criminal cases. However, as there was no substance or evidence in those cases, in most of the cases the applicant has been acquitted by the competent criminal Courts and the proceedings have also been stayed by this Court.

8. It is also submitted that the applicant is in jail in this matter since 25.07.2023 and there is no apprehension that, if the facility of bail is granted to the applicant, he may flee from the course of law or will not appear before the court below, as also the evidence/material available on record is not strong enough to raise a presumption that the applicant is guilty of the offences mentioned in the gang chart and since the informant of the instant case as well as the Board which has approved the Gang Chart has chosen only two cases on the basis of which the provisions of the Gangster Act has been invoked against the applicant, the criminal history of the applicant would not be having any bearing on the fate of the instant bail application, moreover, when the identically placed co-accused persons have been granted bail.

9. Learned A.G.A. on the other hand submits that the applicant

has committed an heinous offence and he is having long criminal history and, therefore, he is not entitled to be released on bail.

10. Having heard learned counsel for the parties and having perused the record, it is evident that on the basis of two cases the provisions of Gangster Act has been invoked against the applicant. Out of these two cases, the proceedings of one case has been stayed by a co-ordinate Bench of this Court and in one case he has been acquitted by the Trial Court. The criminal history of 27 cases have been adequately explained by the applicant in Para No. 11 of the bail application and it is transpired that in almost 14 cases the applicant has been acquitted and in 9 cases he has been granted regular bail or anticipatory bail and in rest of the cases the proceedings have either been stayed by this Court or have been quashed or charge sheet has not been filed by the investigating agency. It is vehemently submitted that the investigation of this case is nothing but an eye wash, as the charge sheet has been submitted on the same day. Identically placed co-accused person of the crime, namely, Aklakh Ahmad @ Haseen Ahmad and Ahmad Hussain alias Channu have also been released on bail by a co-ordinate Bench of this Court and by this Court. Applicant is in jail in this matter since 25.07.2023 and the presence of the applicant may be secured before the trial court by placing adequate conditions.

11. 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.

12. Let the applicant- **Mujeeb Ahmad** 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.

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

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

15. 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.

Order Date :- 20.11.2023

Praveen