

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13478 of 2023

Applicant :- Rukhsar

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

Counsel for Applicant :- Rehan Ahmad Siddiqui

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 and charge-sheet in this case has been filed. 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- **Rukhsar** for grant of bail in Case Crime No.0342 of 2018, under Sections 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 lodged at Police Station Tambour, District Sitapur, 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 two cases mentioned in the gang-chart and in both the cases, mentioned in the gang-chart, the applicant was provided the benefit of Section 41-A of the CrPC by this Court vide orders dated 09.05.2018 and 31.05.2018 and copies of these orders have been placed as Annexures 3 and 4 to the bail application and thereafter the applicant has not yet received any process of the trial Court. It is further submitted that the applicant is also shown involved in two more cases and in these two cases also, he has been enlarged on bail by the trial Courts and the bail orders, pertaining to these two cases, have been placed on record as Annexure Nos. 5 and 6 to the bail application. It is also submitted that identically placed co-accused, Razi has been enlarged on bail by the coordinate Bench of this Court vide

order dated 01.11.2023 passed in Criminal Misc. Bail Application No.12834 of 2023. The applicant has been languishing in jail in this case since 20.08.2023. Charge-sheet in this case has been filed 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 an 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 two criminal cases shown in the gang-chart, the provisions of the Gangsters Act have been invoked against the applicant, however, in these cases, the applicant has been granted the benefit of Section 41-A of the CrPC. Criminal history of two more cases has been alleged, however, in these two cases also, the applicant has been enlarged on bail by the trial Courts. Identically placed co-accused, Razi has been enlarged on bail by the coordinate Bench of this Court. The applicant has been languishing in jail in this case since 20.08.2023. 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-**Rukhsar** 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 :- 9.11.2023

MVS/-