

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14198 of 2023

Applicant :- Suraj And Another

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

Counsel for Applicant :- Dharm Trivedi

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.
2. Learned A.G.A. informs that he has procured complete instructions in the matter including upto date case diary.
3. Heard learned counsel for the accused-applicants as well as learned A.G.A. for the State and perused the record.
4. This bail application has been moved on behalf of the accused-applicants/**Suraj** and **Amit** for grant of bail, in Case Crime No.508 of 2023, under Section 2(b)(ii)/3 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Fardhan, District Kheri during pendency of trial.
5. Learned counsel for accused-applicants while pressing the bail application submits that the accused-applicants have been falsely implicated in the instant case as well as in two cases shown against applicant no.1 and in one case shown against applicant no.2 mentioned in the gang chart. However, in all these cases mentioned in the gang chart, they have been released on bail by the trial court and the bail orders with regard to these cases have been placed as Annexure Nos.2 and 3 to this bail application.
6. He further submits that apart from these cases, the complicity of the applicants are also shown with regard to another criminal case, however, in that case also, they have been granted bail by trial court. A copy of this bail order has also been placed as Annexure No.S.A. No.1 to the supplementary affidavit dated 06.12.2023 and apart from the above mentioned cases, the applicants are not involved in any other criminal case.
7. It is also submitted that the applicants are in jail in this matter

since 05.11.2023 and having regard to the fact that only on the basis of two and one criminal case(s), the provisions of Gangster Act has been invoked against the applicants, respectively and the material which has been made the basis of lodging the first information report in this case is not sufficient enough to raise a presumption that the applicants are either guilty of the offences mentioned in the gang chart or may commit the same offences again if the facility of bail is granted to them.

8. Learned A.G.A. opposes the prayer for bail of the applicants, but could not confront the factual submissions made by the learned counsel for the accused-applicants.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the provisions of Gangsters Act has been invoked against the applicants on the basis of two cases against applicant no.1 and one case against applicant no.2 mentioned in the gang chart, however, in all cases mentioned in the gang chart they has been released on bail by trial court and apart from the above mentioned two cases, the complicity of the applicants is stated to be shown in another criminal case, wherein also they have been granted bail by trial court and apart from the above mentioned cases, the applicants are not involved in any other criminal case. The applicants are in jail in this case since 05.11.2023. Nothing has been brought on record, which may suggest that the facility of bail granted by trial court pertaining to the offences mentioned in the gang chart has been challenged at any higher forum or has been cancelled by any superior court. The presence of the applicants could be secured before the trial court by placing adequate conditions/restrictions.

10. 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 applicants have made out a case for bail. The bail application is **allowed**.

11. Let the accused-applicants/**Suraj** and **Amit** involved in aforesaid case be released on bail on furnishing personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicants shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicants shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicants shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

13. Identity, status and residence proof of the applicants and sureties be verified by the court concerned before the bonds are accepted.

14. 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 of this Court on the merits of the case.

Order Date :- 6.12.2023

Anupam S/-