

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14376 of 2023

Applicant :- Santosh Kumar

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

Counsel for Applicant :- Abhishek Chauhan, Janardan Singh

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 Shri Janardan Singh, learned counsel for the accused-applicant 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 applicant/**Santosh Kumar** for grant of bail, in Case Crime No.0866 of 2023, under Section 3(1) of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Kotwali Nagar, District Gonda, during pendency of trial.
5. 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 single case mentioned in the gang chart and he has not committed any offence as claimed by the prosecution.
6. It is further submitted that in the single case mentioned in the gang chart, the applicant has been released on bail by Coordinate Bench of this Court, a copy of which has been placed as Annexure No.3 to this bail application and apart from single case mentioned in the gang chart, the complicity of the applicant is also shown with regard to other three criminal cases, however, in all these cases except one, he has been granted bail by trial court as well as by Coordinate Bench of this Court and copy of bail orders have also been placed on record and with regard to the remaining one case, Final Report/Closure Report has been filed and no process of the trial court has been received by the applicant yet with regard to that

case and apart from the above mentioned cases, the applicant is not involved in any other criminal case.

7. It is also submitted that the applicant is in jail in this matter since 14.11.2023 and only on the basis of single criminal case, the provisions of Gangster Act has been invoked against the applicant 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 applicant is 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 him.

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

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 applicant on the basis of single case mentioned in the gang chart, however, in the case mentioned in the gang chart he has been released on bail by Coordinate Bench of this Court and apart from single case mentioned in the gang chart, the complicity of the applicant is also shown with regard to other three criminal cases, however, in all these cases except one, he has been granted bail by trial court as well as by Coordinate Bench of this Court and copy of bail orders have also been placed on record and with regard to remaining one case, Final Report/Closure Report has been filed and no process of the trial court has been received by the applicant yet with regard to that case and apart from the above mentioned cases, the applicant is not involved in any other criminal case. The applicant is in jail in this case since 14.11.2023. 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 applicant could be secured before the trial court by placing adequate conditions/restrictions.

10. Having regard to the overall facts and circumstances of the case and keeping in view the submissions made by learned counsel for the applicant I find substance only for the purpose of releasing the applicant on bail. The bail application is, thus, **allowed**.

11. Let the applicant/**Santosh Kumar** involved in the aforesaid 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.

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 applicant 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 :- 12.12.2023

Anupam S/-