

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14434 of 2023

Applicant :- Tilakram

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

Counsel for Applicant :- Pawan Kumar Sharma

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.

2. Heard Shri Pawan Kumar Sharma, 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- **Tilakram** for grant of bail, in case Crime No. 73/2023, under Section 3(1) of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Matera, District Bahraich, 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 single case mentioned in the gang chart, however, in this case mentioned in the gang chart he has been granted facility of bail by trial court and copy of bail order pertaining to this case is placed on record as Annexure No. 3 to the bail application.

5. It is further submitted that apart from the above mentioned single case the applicant is also shown involved in other six criminal cases and in four of such cases also the applicant has been granted bail by the trial courts and the copies of bail orders pertaining to these five cases are placed on record as Annexures No.SA-1 to the supplementary affidavit dated 5.12.2023.

6. It is further submitted that though in the case Crime No. 161/2011 under Sections 380, 457 IPC, Police Station Khairghat, District Bahraich, the applicant has been granted bail by the trial court in the year 2011 but the copy of the bail order could not be procured despite due diligence. It is also submitted that in Case Crime No. 35 of 2007 under Sections

395, 397 IPC, Police Station Khairighat, District Bahraich a folio was presented in the trial court, a copy of which is placed at page no. 40 of the supplementary affidavit dated 5.12.2023 and a report has been submitted stating that the said file has been weeded out and in this regard bail order in that case could not be obtained.

7. It is further submitted that the applicant is in jail in this case since 12.10.2023 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.

8. 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.

9. 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 single case mentioned in the gang chart and in this case he has been granted bail by the trial court. Apart from the single case mentioned in the gang chart the applicant is also shown involved in other six criminal cases and in four cases also the applicant has been granted bail by the trial courts and in two cases; one case Crime No. 161/2011 under Sections 380, 457 IPC, Police Station Khairighat, District Bahraich, the applicant has been granted bail by the trial court in the year 2011 but the copy of the bail order could not be procured despite due diligence and in other Case Crime No. 35 of 2007 under Sections 395, 397 IPC, Police Station Khairighat, District Bahraich a folio was presented in the trial court and a report has been submitted that said file has been weeded out and in this regard bail order in that case could not be obtained. The applicant is in jail in this case since 12.10.2023. His presence may be secured before the trial court by placing adequate conditions.

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 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.

11. Let applicant- **Tilakram** 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.

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 are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 7.12.2023

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