

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14549 of 2023

Applicant :- Suraj Kashyap

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lucknow

Counsel for Applicant :- D.P. Dutt Tiwari, Deependra Pratap Singh, Mayank 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 AGA informs that he has procured complete instructions in the matter including up to date case diary.
3. Heard Shri D.P. Dutt Tiwari, 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 by the accused/applicant- Suraj Kashyap for grant of bail, in case Crime No. 0361/2023, under Section 3(1) of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Fatehpur, District Barabanki, during trial.
5. 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 four cases mentioned in the gang chart, however, in these cases mentioned in the gang chart he has been granted facility of bail by the trial courts and copies of bail orders pertaining to these four cases are placed on record as Annexures No. 7,8,9 and 10 to the bail application.
6. It is further submitted that apart from the above mentioned four cases the applicant is also shown involved in other two cases in the instructions procured by the State, however, in one of such case bearing Case Crime No. 106/2023 closure report/ final report has been submitted after thorough investigation and the applicant has not received any process of the court in this case yet and with regard to second criminal case No. 482 of 2022 the applicant is not in the knowledge of the same,

however, it is undertaken that after his release from prison the applicant shall inquire about the same and within one month from release of prison place the status of this case before the trial court by filing an affidavit.

7. It is vehemently submitted by the applicant that only two cases have been alleged as criminal history by the State in the instructions supplied by the concerned authority, however, the applicant has explained 7 other cases which are the criminal history of the applicant in paragraph 11 of the bail application which were not highlighted by the State.

8. It is further submitted that the applicant is in jail in this case since 21.3.2023 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.

9. 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.

10. 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 four criminal cases mentioned in the gang chart and in these cases he has been granted bail by the trial courts. Apart from above four cases the applicant is also shown involved in other two cases in the instructions procured by the State, however, in one such case bearing Case Crime No. 106/2023 closure report/ final report has been submitted after thorough investigation and the applicant has not been received any process of the court as yet in that case. The other criminal case bearing crime No. 482 of 2022 is not in the knowledge of the applicant. It is vehemently submitted that only two cases have been alleged as the criminal history of the applicant by the State in the instructions supplied by the concerned authority, however, the applicant has explained 7 other cases which are criminal history of the applicant in paragraph 11 of the bail application which was not highlighted by the State. The applicant is in jail in this case since 21.3.2023. His presence 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 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.

12. Let applicant- Suraj Kashyap 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) Within 30 days from release of prison the applicant shall place before the trial court by filing an affidavit the status of case Crime No. 482 of 2022 under Sections 380 & 457 IPC, Police Station Tikait Nagar, District Barabanki.

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

(iii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iv) 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 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 :- 11.12.2023

Muk