

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14881 of 2023

Applicant :- Neeraj Mishra @ Neeraj Kumar Mishra

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

Counsel for Applicant :- Ishan Baghel, Kausar Jahan, Mohd. Khalid

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 Ishan Baghel, 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- **Neeraj Mishra @ Neeraj Kumar Mishra** for grant of bail, in F.I.R. No. 0404/2023, under Section 2&3 of Uttar Pradesh Gangsters & Anti- Social Activities (Prevention) Act, 1986, Police Station Sushant Golf City, District Lucknow, 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 single case mentioned in the gang chart, however, in the single case mentioned in the gang chart he has been granted facility of bail by a Coordinate Bench of this Court, vide order dated 9.11.2023 passed in Crl. Misc. Bail Application No. 13477 of 2023 and a copy of the bail order pertaining to this case is placed at page no. 23 of the paper book (Annexure No.4).
6. It is further submitted that apart from the above mentioned single case a criminal history of 8 cases has been shown against the applicant, however, in all these cases the applicant has been granted bail and the same has been explained in paragraph 3 of the supplementary affidavit filed today.

7. It is further submitted that Coordinate Bench of this Court while granting bail to the applicant with regard to the case on the basis of which provision of Gangsters Act has been invoked against the applicant has taken into consideration the criminal history of the applicant which at that point of time was pertaining to 8 other criminal cases.

8. It is vehemently submitted that the criminal history of the applicant may not be relevant for the purpose of adjudication of the bail application of the applicant as the same has not been considered by the Appropriate Authorities while invoking the provisions of Gangsters Act against the applicant and it is only on the basis of single criminal case, the provision of Gangsters Act has been invoked against the applicant.

9. It is also submitted that identically placed co-accused Vijay Pandey @ Sarvesh has been granted bail by this Court, vide order dated 2.12.2023 passed in Crl. Misc. Bail Application No. 14170 of 2023 and a copy of the said bail order has been placed as Annexure No.5 to the bail application (page no.25).

10. It is also submitted that the material which has been made the basis of invoking Gangsters Act against the applicant 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 as described in the gang chart.

11. It is further submitted that the applicant is in jail in this case since 25.04.2023. The Investigating Officer of the case pending and the applicant undertakes that he will cooperate in the investigation and would remain present before the Investigating Officer as and when his presence may be needed.

12. 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.

13. 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 criminal case mentioned in the gang chart and in this case he has been granted bail by a Coordinate Bench of this Court. Apart from single case the applicant is shown involved in other 8 criminal cases and in all these cases also the applicant has been granted bail and the same has been explained in paragraph no.3 of the supplementary affidavit filed today. Identically placed co-accused person, namely, Vijay Pandey @ Sarvesh has been granted bail by this Court. The applicant is in jail in this case since 25.04.2023. His presence may be secured before the

trial court by placing adequate conditions.

14. 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***.

15. Let applicant- **Neeraj Mishra @ Neeraj Kumar Mishra** for 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.

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

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

18. 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 :- 21.12.2023

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