

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15288 of 2023

Applicant :- Sushil Kumar Yadav

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

Counsel for Applicant :- Arun Sinha, Umang Agarwal

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary and charge sheet has also been submitted.
3. Heard Shri Arun Sinha, 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/**Sushil Kumar Yadav** for grant of bail, in Case Crime No. 555 of 2019, under Section 2/3 of U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 Police Station Chinhat, District Lucknow, 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 four criminal cases mentioned in the gang chart. However, in three of such cases bearing Case Crime No. 317 of 2019, 318 of 2019 and 217 of 2018, the applicant has been granted bail by a co-ordinate Bench of this Court as well as by the trial courts and copies of the bail orders with regard to these three criminal cases have been placed at Page No. 32, 42 and 45 the bail application.
6. It is further submitted that though, in the gang chart a case bearing Case Crime No. 371 of 2019 pertaining to Sections 341, 504 and 506 I.P.C., Police Station Chinhat, District Lucknow has been shown, however, the same has been wrongly shown as the applicant was connected with a case bearing Case Crime No. 371 of 2018 wherein till now the charge sheet has not been submitted.

7. Attention of this Court has been drawn towards a questionnaire filed today, which has also been taken on record, issued by the Court of A.C.J.M., Lucknow, which evidently shows that charge sheet in Case Crime No. 371 of 2018 has not been filed yet.

8. Attention of this Court has also been highlighted by learned counsel for the applicant towards the photocopy of an F.I.R. bearing Case Crime No. 371 of 2019 and the charge sheet filed therein, copies of which have been placed before this Court for perusal and have been taken on record, in order to show that this case is not connected with the applicant.

9. Learned counsel for the applicant has placed before this Court for perusal an F.I.R., charge sheet in Case Crime No. 371 of 2019 and questionnaire in original pertaining to Case Crime No. 371 of 2018. These documents are taken on record.

10. It is further submitted that identically placed co-accused persons, namely, Rakesh Yadav and Dileep Kumar Vishwakarma have been granted bail by a co-ordinate Bench of this Court, vide order dated 30.10.2019 passed in Criminal Misc. Bail Application No. 10197 of 2019 and 10203 of 2019. Applicant is in jail in this matter since 02.07.2019 and there is no apprehension that, if the facility of bail is granted to the applicant, he may flee from the course of law or will not appear before the court below, as also the evidence/material available on record is not strong enough to raise a presumption that the applicant is guilty of the offences mentioned in the gang chart.

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

12. Having heard learned counsel for the parties and having perused the record, it is transpired from the record that applicant is involved in four criminal cases mentioned in the gang chart. However, in three of such cases the applicant has been released on bail by a co-ordinate Bench of this Court as well as by competent criminal courts and in the fourth case pertaining to Case Crime No. 371 of 2018, charge sheet has not been submitted yet and pertaining to the same a questionnaire in original has been filed before this Court for perusal. Apart from the above-mentioned four criminal cases, applicant is not involved in any other criminal case. Applicant is in jail in this matter since 02.07.2019 and the presence of the applicant may be secured before the trial court by placing adequate conditions.

13. 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 applicant has made out a case for bail. The bail application is thus **allowed**.

14. Let the applicant/**Sushil Kumar Yadav** involved in above-mentioned 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.

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

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

17. 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 on the merits of the case.

Order Date :- 22.12.2023

Praveen