

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 500 of 2024

Applicant :- Sanjay Singh @ Munna Singh

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

Counsel for Applicant :- Kapil Misra,Ajay Pratap Singh,Akhilesh Kumar Pandey,Ravi Singh

Counsel for Opposite Party :- G.A.,Anurag Kumar Singh

Hon'ble Karunesh Singh Pawar,J.

1. Heard learned counsel for the accused-applicant, Shri Anurag Kumar Singh, learned counsel for the complainant and learned A.G.A. for the State as well as perused the record.

2. Learned counsel for the accused-applicant submits that in the original Case Crime No.103/2023 registered under Sections 147, 149, 302, 120-B, 504, 506 IPC the applicant was granted bail on 17.11.2023. As soon as he was granted bail, on the very next day i.e. 18.11.2023 this F.I.R. under The Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986 (in short referred to as Gangster Act) was registered on the ground of breach of public peace, however, there is no such material with the prosecution to show that there is a breach of public peace. In support of his contention, he has relied on the judgment of this Court passed in the case of **Angad Rai vs. State of U.P. ; Criminal Misc. Bail Application No.42050 of 2023** dated 03.11.2023, emphasis is on paragraphs 9, 16, 17, 18, 19, 20, 21 and 22. He has also placed reliance on the judgment of **Yakub Kureshi vs. State of U.P. ; Criminal Misc. Bail Application No.25492 of 2023** passed by this court on 21.08.2023, emphasis is on paragraphs 9 and 10.

3. It is submitted that co-accused persons namely Abhay Pratap

Singh, Ram Karan Verma, Rishabh Singh, Kuldeep Singh, Suravarth Singh @ Vimla Singh, Surendra Pratap Singh @ Surendar Yadav, Ravi Shankar Pandey have been granted bail by this Court, the copies of bail order are on record.

4. He further submits that a perusal of the gang chart shows that there is total non-application of mind as Case Crime No.77 of 2021 shown in the gang chart against the applicant does not come under the offence punishable under Chapter XVI, XVII, XVIII of IPC, thus, without noticing this fact this crime number has also been shown in the gang chart against the applicant which is totally mechanical and arbitrary act of the opposite parties. While preparing the gang chart, the police has also not mentioned anywhere that the applicant was on bail which is contrary to Rule 8 of Chapter III of the Gangster Act. Applicant is not a previous convict. He has a criminal history of 21 cases, which has been explained in paragraph 7 of the supplementary affidavit filed on 01.08.2024.

5. Learned counsel for the applicant submits that previous bad character of the applicant is irrelevant since he is not being convicted yet in any case, therefore, the bad character or criminal history of applicant cannot be a fact in issue hence, the same is irrelevant for considering this bail application.

6. It has been further submitted that the applicant is in jail since 09.08.2023 and if facility of bail is granted, there is no apprehension that he will flee from the judicial process and he will abide by the orders passed by the Court below and will co-operate in speedy trial of the case.

7. Learned A.G.A. as well as learned counsel for the complainant have opposed the prayer for bail but have not disputed the factual submissions made by the learned counsel for the accused-applicant. Learned counsel for the complainant has submitted that the applicant has a criminal history of several

cases.

8. Perused the record.

9. A perusal of Rule 5(iii)(a) of the Gangsters Act shows that gang chart will not be approved summarily but after due discussion in the joint meeting of Commissioner of Police/ District Magistrate/ Senior Superintendent of Police/ Superintendent of Police. A perusal of the gang chart shows that no joint meeting was convened rather the gang chart was signed by the authorities on different dates.

10. The Division Bench of this Court in the case of ***Abdul Lateef @ Mustak Khan vs. State of U.P. and 2 others ; Criminal Misc. Writ Petition No.9930 of 2024*** has quashed the F.I.R.s in gangsters cases on the grounds that gang chart was prepared in violation of Rules, 2021 and the competent authorities have simply signed the gang chart without properly recording their satisfaction.

11. In this case also the authorities have not only signed the gang chart on different dates but they have not properly recorded their satisfaction. They have only signed the pre-typed notes which is against the U.P. Gangsters and Anti-social Activities Rules, 2021 as well as directions issued by this Court in the cases of ***Sanni Mishra @ Sanjayan Kumar Mishra vs. State of U.P. and others; 2024 (1) DJ 231 (DB)*** and ***Rajeev Kumar @ Raju vs. State of U.P. and other ; Criminal Misc. Writ Petition No.9428 of 2024.***

12. The gang chart also *prima facie* appears to have been prepared without application of mind inasmuch as Case Crime No.77/2021 is shown in the gang chart against the applicant is concerned. The co-accused persons namely Abhay Pratap Singh, Ram Karan Verma, Rishabh Singh, Kuldeep Singh, Suravarth Singh @ Vimla Singh, Surendra Pratap Singh @ Surendar Yadav, Ravi Shankar Pandey, whose names have also

shown in the gang chart, have been granted bail and *prima facie* considering the manner in which the gang chart has been prepared *de hors* the U.P. Gangsters and Anti-social Activities Rules, 2021 particularly Rule 5(iii)(a), therefore, this Court is of the opinion that applicant may not be held guilty during trial.

13. So far as the criminal history of the applicant is concerned, the applicant is not a previous convict, thus, twin conditions of Section 19(4) of the Gangsters Act have been satisfied.

14. Considering the facts and circumstances of the case, nature of allegations, arguments advanced by learned counsel for the parties, the bail orders of co-accused persons, named above, *prima facie*, there appears to be non-compliance of Rule 5 (iii) (a) of the Gangsters Act, non-application of mind in preparing the gang chart, as discussed above, and also the twin conditions under Section 19(4) of the Gangsters Act having been satisfied, period of incarceration gone into by the applicant and without expressing any opinion on the merits of the case, I find it to be a fit case for enlarging the applicant on bail.

15. Accordingly, the bail application is ***allowed***.

16. Let the applicant, ***Sanjay Singh @ Munna Singh*** involved in Case Crime No. 175 of 2023, under Sections 2/3(1) of U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station - Sangrampur District - Amethi be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not pressurize/ intimidate the prosecution witness.

(iii) The applicant shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iv) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(v) The applicant shall submit an undertaking on affidavit in terms of Section 19 (4) of the U.P. Gangster and Anti Social Activities (Prevention) Act, 1986 that he will not indulge in any case for or misuse the liberty of bail.

(vi) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(vii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

Order Date :- 10.12.2024

Saurabh Yadav/-