

Court No. - 67

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20872 of 2025

Applicant :- Dilshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

1. Heard learned counsel for the applicant, learned Additional Government Advocate representing the State and perused the record of the case.

2. By means of this application, applicant-Dilshad, who is involved in Case Crime No. 53 of 2025, under Sections 2/3 of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986, police station Gabhana, district Aligarh, seeks enlargement on bail during pendency of trial.

3. Brief facts of the case, which are required to be stated are that on the basis of two cases registered as Crime No. 401 of 2024, under Sections 3/5/8 of the U.P. Prevention of Cow Slaughter Act at Police Station Gabhana, District Aligarh and Crime No. 397 of 2024, under Sections 3/5/8 of the U.P. Prevention of Cow Slaughter Act at Police Station Gabhana, District Aligarh, against the applicant as well as considering his other criminal history, proceedings under the provisions of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986 were initiated against him. Accordingly, a first information report was lodged on 20.02.2025 against eleven accused persons, namely, Haji Faiyaz, Sajjan Khan, Taufiq, Salman alias Saddam alias Padda, Iqrar, Dilshad (applicant), Chini alias Rais, Bablu alias Mohd. Saeed, Salim, Nizam and Yunus alias Ina, at Case Crime No. 53 of 2025, for the offence under Sections 2/3 of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986 at police station Gabhana, district Aligarh.

4. It is argued by learned counsel for the applicant that according to the gang chart, the applicant is said to have involved in twenty three criminal cases but the provisions of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986 have been invoked against the applicant on the basis of aforesaid 02

cases being Case Crime No. 401 of 2024 and Case Crime No. 397 of 2024, both registered under Section 3/5/8 of Cow Slaughter Act, police station Gabhana, district Aligarha, in which he has already been enlarged on bail. It is next submitted that apart from present case as well as aforesaid two cases mentioned in the gang chart, the applicant has criminal history of 21 other criminal cases, in which also, the applicant has been granted bail. It is further argued that the applicant has falsely been implicated in the present case due to ulterior motive. He is neither gang leader nor member of any gang. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. Therefore, the applicant, who is languishing in jail since 28.02.2025 is also entitled to be enlarged on bail. Lastly, it is submitted that in case the applicant is released on bail, he will not misuse the liberty of bail.

5. Per contra, learned Additional Government Advocate has opposed the bail prayer of the applicant by contending that the applicant is a habitual offender who has been repeatedly involved in cases pertaining to cow slaughter. It is next submitted that despite repeatedly being granted bail to the applicant in previous cases, he has shown no inclination towards reform and continues to commit the said offence. The recurrence of such offences by the applicant demonstrates a disregard for the rule of law and raises serious concern about the likelihood of him committing similar offences if released on bail. Hence bail application of the applicant is liable to be rejected.

6. Having heard learned counsel for the parties, I find that it is not in dispute that apart from this case, applicant has criminal history of following 23 cases:-

(i) Case Crime No. 220 of 2016, under Section 3/5/8 of U.P. Prevention of Cow Slaughter Act, police station Lodha, district Aligarh.

(ii) Case Crime No. 63 of 2017, under Section 2/3 Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, police station Lodha, district Aligarh.

(iii) Case Crime No. 384 of 2018, under Section 2/3 U.P. Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, police station Lodha, district Aligarh.

(iv) Case Crime No. 385 of 2018, under Section 307 I.P.C., police

station Lodha, district Aligarh.

(v) Case Crime No. 387 of 2018, under Section 25 Arms Act, police station Lodha, district Aligarh.

(vi) Case Crime No. 148 of 2019, under Section 379 I.P.C., police station Lodha, district Aligarh.

(vii) Case Crime No. 30 of 2020, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gabhana, district Aligarh.

(viii) Case Crime No. 90 of 2021, under Section 307 I.P.C., police station Chandpa, district Hathras.

(ix) Case Crime No. 65 of 2021, under Section 392 I.P.C., police station Lodha, district Aligarh.

(x) Case Crime No. 87 of 2021, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Chandpa, district Hathras.

(xi) Case Crime No. 149 of 2021, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gonda, district Aligarh.

(xii) Case Crime No. 166 of 2021, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Lodha, district Aligarh.

(xiii) Case Crime No. 254 of 2021, under Section 2/3 U.P. Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, police station Lodha, district Aligarh.

(xiv) Case Crime No. 171 of 2021, under Section 2/3 U.P. Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, police station Chandpa, district Hathras.

(xv) Case Crime No. 232 of 2022, under Section 4/25, police station Lodha, district Aligarh.

(xvi) Case Crime No. 322 of 2022, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gabhana, district Aligarh.

(xvii) Case Crime No. 232 of 2023, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Chandaus, district

Aligarh.

(xviii) Case Crime No. 48 of 2023, under Section 2/3 U.P. Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, police station Gabhana, district Aligarh.

(xix) Case Crime No. 202 of 2024, under Sections 323, 392, 411, 504 I.P.C., police station Gabhana, district Aligarh.

(xx) Case Crime No. 205 of 2024, under Section 3/25 Arms Act, police station Gabhana, district Aligarh.

(xxi) Case Crime No. 370 of 2024, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gabhana, district Aligarh.

(xxii) Case Crime No. 401 of 2024, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gabhana, district Aligarh.

(xxiii) Case Crime No. 397 of 2024, under Section 3/5/8 U.P. Prevention of Cow Slaughter Act, police station Gabhana, district Aligarh.

7. Out of aforesaid 23 cases, 10 criminal cases are related to offences under the Cow Slaughter Act. Though the applicant has been granted bail in the said 10 cases registered against him under the Cow Slaughter Act but in none of the bail orders provisions of Section 7(A) of The Uttar Pradesh Prevention of Cow Slaughter Act, 1955, has been considered, which is relevant for consideration of bail under the said Act, which reads thus:-

"Section 7(A)

(1) Notwithstanding anything contained in the code of criminal procedure, 1973, no person charged with criminal offence under this act or any rules made thereunder, while in custody, shall be released on bail or on his own bond unless,-

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the Court is convinced that there are reasonable basis for believing that he is not guilty of such offence that it is unlikely to commit any offence while on bail.

(2) The restrictions regarding grant of bail under sub-section (1)

shall be in addition to the restriction under the code of criminal procedure 1973.

(3) Under the provision of this act every prosecutor of the State Prosecution Service, who has been engaged in the prosecution work for 7 years by whatever name it is known, shall be deemed to be a Special Public Prosecutor."

8. I also find that though the applicant has been enlarged on bail in all the 23 cases, but every time whenever the applicant was granted bail, a condition was imposed that in future he will not indulge in any criminal case, but every time the applicant violated the said condition and got himself involved in criminal cases, hence, I am of the considered view that he always misused the liberty of bail.

9. In **Ash Mohammad Vs. Shiv Raj Singh alias Lalla Babu and another**, (2012) 9 SCC 446, Hon'ble Supreme Court, held as under:

"We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed."

10. Hon'ble Apex Court in the case of **Neeru Yadav Vs. State of U.P.**, (2016) 15 SCC 422, after referring a catena of judgement of Hon'ble Supreme Court on the consideration of factors for grant of bail, held as under:

"This being the position of law, it is clear as cloudless sky that the High Court has totally ignored the criminal antecedent of the accused. What has weighed with the High Court is the doctrine of parity. A history sheeter involved in the nature of crimes which we have reproduced herein above, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination can be regarded as jejune. Such cases do create a thunder and lightening having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner."

11. The aforesaid judgement has further been followed by the Apex Court in the case of **Sudha Singh Vs. State of U.P. and another**, (2021) 4 SCC 781. The fact in Sudha Singh's case was that F.I.R. under Section 3(1) of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986 was registered against the accused Arun Yadav, in which as per gang chart, 16 cases were shown against him. The High Court granted bail vide order dated 08.05.2020 considering the fact that out of 16 cases, in 03 cases accused had been acquitted, in 08 cases accused had been granted bail, 04 cases ended in favour of the accused and in 01 case no F.I.R. was lodged against him. The said order dated 08.05.2020 granting bail to the accused Arun Yadav was challenged by Sudha Singh who is wife of the deceased, namely, Rajnarain Singh, who has been allegedly murdered by the accused. The Apex Court vide order dated 23.04.2021 allowed the appeal and set aside the order granting bail to the accused. The relevant observations made by the Hon'ble Apex Court in paragraph No. 7 are quoted herein below :

"7. We find in this case that the High Court has overlooked several aspects, such as the potential threat to witnesses, forcing the trial court to grant protection. It is needless to point out that in cases of this nature, it is important that courts do not enlarge an accused on bail with a blinkered vision by just taking into account only the parties before them and the incident in question. It is necessary for courts to consider the impact that release of such persons on bail will have on the witnesses yet to be examined and the innocent members of the family of the victim who might be the next victims."

12. It would not be out of place to mention that in the matter of bail merely disclosure of criminal history by the accused is not sufficient but proper explanation (about the nature of crime, role assigned to accused and status of investigation or trial as the case may be) of the same is also required to be mentioned in the bail application.

13. Here it would be useful to quote the provisions of Section 19(4) of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986, which is one of the relevant factors to be kept in mind while considering bail of an accused under the said Act, which reads thus:-

"Section 19

(1)

(2)

(3)

(4) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless-

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail."

14. It is well settled that every law is designed to facilitate end of justice and not to frustrate it. Hence the aforesaid legislative mandate is required to be adhered and followed.

15. Taking into note of the aforesaid provisions, I find that Section 19 (4) (a) and (b) of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986 are mandatory in nature. Hence while considering/granting bail, said provisions cannot be ignored.

16. However, it is relevant to mention that no strait-jacket formula can be laid down with regard to satisfaction of the Court in terms of aforesaid Section 19 (4) (b) of Act, 1986, because every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect.

17. The expression 'reasonable grounds' has not been defined in the said Act but means something more than prima facie grounds. It connotes substantial probable causes for believing that the accused is not guilty of the offence he is charged with. The reasonable belief contemplated in turn points to existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. Thus, recording of satisfaction on both the aspects, noted above, is sine qua non for granting bail under the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986.

18. The primary objective of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986 is to prevent

organized crimes and gangster activities within the State of Uttar Pradesh. It aims to dismantle criminal networks and prevent the growth of illicit activities. The offences mentioned in Section 2 (b) (i) to (xxv) of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986, involve significant harm or pose a threat to public safety. The Act empowers law enforcement agencies and State authorities to take necessary measures against gangsters to ensure the safety and security of the citizens.

19. The plea of false implication is a stereotyped defence raised in every case. Experience shows that such statements are made in almost every case, therefore, plea of false implication without any basis or material on record is not liable to be accepted blindly.

20. Considering the overall facts and circumstances of the case as well as keeping in view the submissions advanced on behalf of parties as noted above, gravity of offence, role assigned to the applicant in base case and severity of punishment, this Court in the light of criminal history of the applicant does not find reasonable grounds for believing that the applicant is not guilty of such offence and that he is not likely to commit any offence while on bail. Hence aforesaid mandatory requirement of Section 19 (4) (b) of the Uttar Pradesh Gangsters And Anti-Social Activities (Prevention) Act, 1986 does not stand satisfied.

21. In view of the above, the instant bail application stands **rejected**.

22. It is clarified that observations made herein above are limited to the extent of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence to be adduced uninfluenced by anything mentioned in the order.

23. The trial Court shall make an endeavour to conclude the trial of the applicant expeditiously without granting any unnecessary adjournments to either of the parties in light of the provisions of Section 12 of the Uttar Pradesh Gangsters and Anti Social Activities (Prevention) Act, 1986.

24. Copy of this order be sent to the concerned trial Court immediately for necessary information and compliance.

Order Date:-15.07.2025