Court No. - 93

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47194 of 2020

Applicant :- Vinay Yadav
Opposite Party :- State of U.P.
Counsel for Applicant :- Ram Krishna Dubey
Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

Heard learned counsel for the applicant as well as learned A.G.A. appearing for the State and perused the record.

This application has been filed seeking the release of the applicant on bail in Case Crime No. 499 of 2020, under Section 2/3(1) of U.P. Gangster and Anti Social (Prevention) Activities Act, 1986, Police Station Kalnalganj District Prayagraj.

The chief plank of the submissions made on behalf of accused is that in all cases which have been made the basis to impose the provisions of Gangster Act against the accused, he has already been granted bail by the Court. Contention is that the provisions of the Act have been ill-used by the Police in order to perpetuate the detention of the applicant in jail anyhow even though the offence under the aforesaid Act is not made out. Submission is that the applicant is not a gangster and has never acted or conducted himself as such. Counsel for the applicant has also tried to demonstrate that the alleged previous offences which are said to have been committed by the applicant can at the most be said to be stray incident of breach of law having no nexus with the definition of a gangster as has been provided in the Act.

Further submission is that as it has been mentioned in the affidavit filed in support of the bail application that the applicant has already been released on bail in all the cases on the basis of which the provisions of the Act were imposed, it shall not be much justified to continue the incarceration of the applicant. Submission is also that the applicant is not guilty of having committed any offence under the Gangster Act. It has also been pointed out that the accused is in jail since 7.9.2020 and that in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial.

Learned A.G.A. has opposed the prayer for bail but could not dispute the fact of applicant having been released on bail in all the criminal cases which have been shown to be the basis of imposing the provisions of the Act.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence and larger mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of Dataram Singh vs. State of UP and another, (2018) 3 SCC 22, this Court is of the view that the applicant may be enlarged on bail.

Let the applicant- Vinay Yadav, involved in Case Crime No.499 of 2020, under Section 2/3(1) of U.P. Gangster and Anti Social (Prevention) Activities Act, 1986, Police Station Kalnalganj District Prayagraj, be released on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

(1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.

(2) The applicant will personally appear on each and every date fixed in the court below and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.

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

(4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(5)The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

(6) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing

It may be observed that in the event of any breach of the aforesaid conditions, the court below shall be at liberty to proceed for the cancellation of applicant's bail.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 18.12.2020
SP