

Court No. - 82

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40759 of 2019

Applicant :- Zahid And Another

Opposite Party :- State Of U.P.

Counsel for Applicant :- Syed Ali Imam

Counsel for Opposite Party :- G.A.

Hon'ble Narendra Kumar Johari,J.

Heard learned counsel for applicants, learned A.G.A. for the State and perused the record.

This bail application has been filed by the accused-applicant Zahid and Shakeel, who are involved in Case Crime No.523 of 2019, under Section 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, P.S.- Massorie, District-Ghaziabad.

Submission of learned counsel for the applicant is that there are three cases shown against the applicants in the gang chart and in all the said cases, they have already been granted bail, copies of bail order has been annexed along with the bail application. He further submitted that provisions of Gangster Act have been slapped only on the basis of that very case. They have been falsely implicated in the present case with an ulterior motive.

It is further submitted by learned counsel for the applicants that applicants are in jail since 02.09.2019. In case the applicants are released on bail, they will not misuse the liberty of bail and will not indulge in any criminal activities and will cooperate in the trial by all means.

Learned A.G.A has, however, opposed the prayer for grant of bail but he has not disputed the above contention made by the learned counsel for the accused-applicants.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and in view of the law laid down by Hon'ble Apex Court in **Nikesh Tarachand Shah Vs. Union of India 2017 (13) Scale 609 and Data Ram Singh Vs. State of U.P. 2018 AIR 980 S.C.**, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let the applicants (**Zahid and Shakeel**) be released on bail in

the aforesaid case crime number on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the Magistrate/Court concerned, subject to following conditions:-

(i) applicants shall attend the court in accordance with the conditions of the bond executed.

(ii) applicants shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected, and

(iii) applicants 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 applicants shall cooperate with investigation /trial.

(v). The applicants 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.

(vi). The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(vii). In case, the applicants misuse the liberty of bail during trial 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.

(viii). The applicants shall remain present, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Order Date :- 30.9.2019

Krishna