

**Court No. - 72**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 6407 of 2021

**Applicant :-** Chotey

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Atul Pandey

**Counsel for Opposite Party :-** G.A.

**Hon'ble Sanjay Kumar Singh,J.**

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

The instant bail application has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 196 of 2020, under Section 2/3 U.P. Gangsters and Anti Social Activities (Prevention) Act, police station Madhotanda, District Pilibhit during the pendency of trial.

It is argued by the learned counsel for the applicant that according to the gang chart the applicant is said to have been involved in two criminal cases in which he has already been enlarged on bail by the court concerned and the copy of the same has been annexed as annexure Nos. 3 & 4 to the application. It is next argued that applicant has additional criminal history of five cases, out of which in four cases he is on bail and with regard to fifth case being Case Crime No.1243 of 2015, under Section 3 of U.P. Control of Goondas Act, Police Station Madhotanda, District Pilibhit, the final order was passed and the said order has been complied with. He has falsely been implicated in the present case due to police rivalry. He is not a member of any gang. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. The applicant is languishing in jail since 04.12.2020 and in case he is enlarged on bail, he will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the bail prayer of the applicant by contending that the applicant is a member of gang and habitual of committing crime. In case the applicant is released on bail he will again indulge in similar anti-social activities and will misuse the bail by extending threat and intimidation to the prosecution witnesses.

Keeping in view the nature of the offence, evidence, complicity of the accused, submissions of the learned counsel for the parties, I am of the view that the applicant has made out a fit

case for bail. Hence, the bail application is hereby allowed.

Let the applicant **Chotey** be released on bail in the aforesaid case crime number on 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 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.

(ii) 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.

(iii) 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.

(iv) The applicant shall remain present, in person, 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.

(v) The applicant shall file computer generated copy of this order downloaded from the official website of High Court Allahabad.

(vi) The computer generated copy of this order shall be self attested by the counsel of the party concerned.

(vii) 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 is clarified that anything said in this order is limited to the purpose 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 led unaffected by anything said in this order.

**Order Date :- 29.1.2021**

P.S.Parihar