

Court No. - 90

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53206 of 2022

Applicant :- Rohit Alias Lalla

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Shiv Shanker Prasad,J.

Supplementary affidavit filed today on behalf of the applicant is taken on record.

Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.

The present bail application has been filed by the applicant- **Rohit alias Lalla** with a prayer to enlarge him on bail in Case Crime No. 217 of 2022, under Section 3(1) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 registered at Police Station - Harraiya, District - Basti during the pendency of the trial.

It has been argued by the learned counsel for the applicant that the applicant has been falsely implicated in the present case for the purpose of harassment. False and fabricated prosecution story has been made by the police. There is no reliable evidence against the applicant. It is next argued that in the gang chart, two cases have been shown against the applicant. It has further been argued by the learned counsel for the applicant that the applicant has already been enlarged on bail in the case shown in the gang chart and copy of the bail order has been enclosed as Annexure No. 3 to the bail application. Apart from the aforesaid cases mentioned in the gang chart the applicant has criminal history of two cases, which have been explained in para- 3 of the supplementary affidavit. It is next contended that there is no possibility of the applicant of fleeing away from the judicial process or tampering with the witnesses and in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail. The applicant is in jail since 19.09.2022.

Per contra learned AGA has opposed the bail prayer of the applicant but he could not dispute the factual submissions as argued by the learned counsel for the applicant.

Considering the nature of the offence, provision for initiation of cases and release of the accused under the U.P. Gangster Act

and Anti Social Activities (Prevention) Act, 1986, material/evidence brought on record, complicity of the accused, severity of punishment as well as the submissions made by the learned counsel for the parties, let the applicant involved in aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the Court concerned, subject to the following conditions:-

1. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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.
2. 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.
3. 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.
4. 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.

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 :- 30.11.2022
SK Srivastava