

Court No. - 13

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6137 of 2024

Applicant :- Chinta

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Sumit Chauhan, Vishnu Narayan Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Lavania, J.

Heard learned counsel for the applicant as well as learned A.G.A. for the State of U.P. and perused the record.

The present bail application has been filed on behalf of the applicant in Case Crime No. 0123 of 2024, under Sections 2(b) (ii)/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station Fardhan, District Lakhimpur Kheri, with the prayer to enlarge him on bail.

The submissions of learned counsel for the applicant is that the applicant is an innocent person and he has falsely been implicated in the case. It is further submitted on behalf of the applicant that only one case has been shown in the gang chart against the applicant and in the aforesaid case, the applicant is on bail. It is also submitted that co accused namely Ramvilash alias Manoj has already been enlarged on bail by this Court vide order dated 25.05.2024 passed in Criminal Misc. Bail Application Nos. 5727 of 2024.

He further stated that in F.I.R., in issue, the allegations with regard to disturbing the public order as also regarding gaining undue temporal, pecuniary, material or other advantage of like nature against the applicant are vague. Further, stated that in absence of allegation concerning an act or omission on the part of an accused, covered by the definition of term "gang" and "gangster" as provided under Section 2 of the Act, no FIR is maintainable. In the instant case, the FIR is based upon the

pending criminal case(s) and not upon any new allegation(s) or discovery of fact(s) having serious reflection on the society, for which purpose the Act was enacted.

He also stated that the provisions of the Act could not be used as a weapon to wreak vengeance or harass or intimidate citizens or to settle scores on political or other fronts.

He stated that in this case, it appears that the District Administration in order to show good work or to win laurels or seek appreciation from the higher authorities of Government or ruling party has invoked the provisions of the Act, which is unjustified.

He also stated that considering the facts of the case, as stated above, there are reasonable grounds for believing that the applicant is not guilty of the offence under the Gangsters Act and that he would not commit the offence while on bail. He also submitted that the applicant while on bail would not commit any crime/offence nor would try to tamper the evidence or influence the witnesses in any manner whatsoever it may be.

Learned Counsel for the applicant has submitted that applicant is languishing in jail in this matter since 02.05.2024 and there is no apprehension that, if the facility of bail is granted to the applicant, he may flee from the course of law or he will not appear before the Court below, as also the evidence/material available on record is not strong enough to raise a presumption that the applicant is guilty of the offences mentioned in the gang chart.

In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail and will cooperate in trial.

Learned A.G.A. has opposed the prayer for grant of bail, but has fairly conceded that in the cases mentioned in the gang chart, the applicant is on bail. He also could not dispute that co-accused person has already been enlarged on bail by this Court.

Considering the rival submissions of learned counsel for parties, material available on record as well as totality of fact and circumstances as also the fact that co-accused person has already been enlarged on bail by this Court as also after taking note of Section 19(4)(b) of the Gangsters Act in light of the facts of the case and submission of counsel for the applicant to the effect that while on bail in this case, the applicant would not commit any crime/offence nor would try to tamper the evidence or influence the witnesses in any manner whatsoever it may be and without expressing any opinion on the merits of the case, I am of the view that the applicant is entitled to be released on bail.

Let applicant- ***Chinta*** be released on bail in aforesaid Case Crime, on his furnishing personal bond to the satisfaction of the court concerned forthwith. Applicant is also directed to furnish two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(1) Applicant will not try to influence the witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.

(2) Applicant will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.

(3) Applicant shall remain present, in person, before the trial court on the dates fixed for (a) opening of the case, (b) framing

of charge; and (c) recording of statement under Section 313 Cr.P.C.

(4) The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

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

(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.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 31.5.2024

Jyoti/-