

Court No. - 93

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41453 of 2022

Applicant :- Srikant Tyagi

Opposite Party :- State of U.P.

Counsel for Applicant :- Amrita Rai Mishra, Alok Ranjan Mishra, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Surendra Singh-I,J.

Counter affidavit filed on behalf of the informant and rejoinder affidavit filed on behalf of the applicant in the Court today is taken on record.

Heard Sri G.S. Chaturvedi, learned Senior Advocate assisted by Smt. Amrita Rai Mishra and Sri Alok Ranjan Mishra, learned counsels for the applicant and Sri Sunil Kumar Tripathi, learned A.G.A. for the State.

The instant bail application has been filed on behalf of the applicant, **Srikant Tyagi**, with a prayer to release him on bail in **Case Crime No. 340 of 2022, under Sections 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station- Phase-2 Noida, District- Gautam Budh Nagar**, during pendency of trial.

It is argued by the learned Senior Advocate on behalf of the applicant that according to the gang chart, the applicant is said to have been involved in three criminal cases, namely, (i) Case Crime No. 329 of 2022 u/s 354, 323, 504, 506 & 447 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar (ii) Case Crime No. 335 of 2022 u/s 419, 420 & 482 I.P.C., P.S.- Phase-2 Noida, District- Gautam Budh Nagar and (iii) Case Crime No. 339 of 2022 u/s 419, 420 & 482 I.P.C., P.S.- Phase-2 Noida, District- Gautam Budh Nagar, in which he has already been enlarged on bail by the Special Judge (SC/ST Act), Gautam Budh Nagar. Apart from the three cases shown in the gang chart, the applicant has been implicated in seven more cases, namely, (i) Case Crime No. 99 of 2007 u/s 387 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar, in which he has been enlarged on bail by the Incharge, ACJM, Court No. 1, Gautam Budh Nagar (ii) Case Crime No. 386 of 2007 u/s 3/4 of U.P. Control of Goondas Act, P.S.- Phase-2, District- Gautam Budh Nagar, in which the Commissioner, Gautam Budh Nagar, after hearing the case, rescinded the order against the applicant (iii) Case Crime No. 514 of 2008 u/s 323, 325, 506, 427, 308 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar, in which the police has submitted final report after completing the investigation (iv) Case Crime No. 634 of 2009 u/s 147, 336, 427, 504 I.P.C. & Section 7 of Criminal Law Amendment Act, P.S.- Phase-2, District- Gautam Budh Nagar, in which

he has been enlarged on bail by the ACJM, Court No. 1, Gautam Budh Nagar (v) Case Crime No. 635 of 2009 u/s 147, 148, 336, 341, 427 I.P.C., Section 2/3 of Prevention of Damage to Public Property Act, 1984 & Section 7 of Criminal Law Amendment Act, P.S.- Phase-2, District- Gautam Budh Nagar, in which he has been enlarged on bail by the ACJM, Court No. 1, Gautam Budh Nagar (vi) Case Crime No. 449 of 2015 u/s 147, 323, 506 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar, the applicant was acquitted of all the charge leveled against him vide judgement and order dated 17.11.2021 passed by ACJM, Court No. 3, Gautam Budh Nagar in Case No. 4497 of 2015 (State of U.P. Vs. Srikant Tyagi and 3 other) and (vii) Case Crime No. 309 of 2020 u/s 323, 504, 506 & 307 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar, in which the police has submitted final report after completing the investigation. It is next submitted that the lodging of the present case under U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, is totally illegal and no case whatsoever is made out against the applicant. It is lastly submitted that in the gang chart, Case Crime No. 335 of 2022 relating to Fortuner Vehicle No. U.P. 32 KK0001 and Case Crime No. 339 of 2022 relating to Fortuner Vehicle No. U.P. 32 HH0001, have been registered against the applicant u/s 419, 420, 482 I.P.C., P.S.- Phase-2, District- Gautam Budh Nagar but the applicant is not the registered owner of the aforesaid vehicles and they have not been recovered from his possession. All the seven criminal cases registered against him are relating to crime alleged to have been committed from the year 2007 to 2020. The applicant has falsely been implicated in the present case due to police rivalry. The applicant is not a member of any gang. The applicant is languishing in jail since 09.08.2022. In case he is enlarged on bail, he will not misuse the liberty of bail.

Learned A.G.A. has vehemently opposed the prayer for bail but he could not deny the assertion made by the counsel for the applicant regarding the bail orders passed in the aforesaid case crime numbers as well as the final reports submitted and judgement and order passed acquitting the applicant in the case mentioned against him.

Considering the facts and circumstances of the case, the nature of allegations, the gravity of the offence, the severity of punishment, the evidence appearing in the case, the fact that the applicant is on bail in the substantive offence, and taking note of Section 19(4)(b) of the U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, but without expressing any opinion on the merits of the case, this Court is of opinion that the applicant is entitled to bail.

The bail application, accordingly, stands allowed.

Let the applicant, **Srikant Tyagi**, involved in the aforesaid case be released on bail on executing his personal bond

and furnishing two sureties each in the like amount to the satisfaction of the Court concerned with the following conditions:

i) The applicant shall not tamper with the prosecution evidence.

ii) The applicant shall not threaten or harass the prosecution witnesses.

iii) The applicant shall appear on the date fixed by the Trial Court.

iv) The applicant shall not commit an offence similar to the offence of which the applicant is accused, or suspected of the commission.

v) The applicant 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 such person from disclosing facts to the Court or to any police officer or tamper with the evidence.

In case of default of any of the conditions enumerated above, the prosecution would be free to move an application for cancellation of bail before the court concerned.

Order Date :- 17.10.2022

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