

Court No. - 87

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11290 of 2022

Applicant :- Mokhtar Ansari

Opposite Party :- State of U.P.

Counsel for Applicant :- Upendra Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Upendra Upadhyay, learned counsel for the applicant as well as S/Sri Ratnendu Kumar Singh and Rajesh Mishra, learned AGA and perused the record.

2. The present application under Section 439 Cr.P.C. was filed on 4.10.2021 seeking bail in FIR/Case Crime No.160 of 2020, under Section 3(1) of the U.P. Gangster and Anti-social Activities (Prevention) Act, 1986, Police Station Tarwan, District Azamgarh.

3. Learned counsel for the accused-applicant submits that he has received instructions to withdraw the present bail application without undertaking that he would not file a fresh application seeking bail in the aforesaid case crime number.

4. This Court is of the view that the accused-applicant wants to avoid this Bench and, therefore, it has been prayed on behalf of the accused-applicant to reject this bail application as withdrawn simplicitor as there is no bar for filing subsequent bail application. Therefore, this Court would like to proceed to decide the case on merit instead of rejecting the bail application as withdrawn simplicitor.

5. The Supreme Court in the case of *Fatehchand Himmatlal and others vs State of Maharashtra and others*, (1977) 2 SCC 670 has held that it is important, by comity of the Bench and the Bar, to conserve judicial time in the name of public justice.

6. The Supreme Court has time and again deprecated the practice of bench-hunting, bench-hopping and bench-avoiding. In the case of *Subrata Roy Sahara Vs. Union of India and others*, (2014) 8 SCC 470 has held that any act of bench-hunting, bench-hopping and bench-avoiding cannot be allowed. The benchmark, that justice must not only be done but should also appear to be done, has to be preserved at all costs. Any attempt for bench-hunting, bench-hopping and bench-avoiding needs to be strongly repulsed.

7. Allegation against the accused-applicant is that on 6.10.2020, the In-charge Inspector, Swatantra Kumar Singh along with police team was on patrol duty and was for look out of the wanted criminals and, therefore, the vehicles etc. were being checked. During the patrol of the police team, it was noticed an organised gang containing Rajendra Pasi alias Bhusi Pasi S/o Rambadan Pasi, Rajan Pasi S/o Dehuni, Harikesh Yadav S/o Phoolchand, Rajesh Singh alias Rajan Singh S/o Late Ramvriksh Singh, Sahan Pasi S/o Prasad Pasi, Chota Pankaj Yadav S/o Ramkaran Yadav, Shyam Babu S/o Prasad Pasi and Abhishek Mishra alias Deepu Mishra S/o Lalji Mishra and other accused. The leader of the gang is the present accused-applicant. The leader and members of the gang committed heinous offences such as murder, abduction, extortion, loot ransom etc. for their financial, economic and material benefits. Because of the criminal activities such as murder etc. there remains a problem of law and order. Because of the fear and terror of this gang, no one comes forward to lodge a report at the police station and no one dares to give evidence against any member of the gang. As this gang and leader is involved in heinous cases such as murder etc., their freedom would not be in the interest of public in general. The gang and its leader have been committing the offences under Chapter 16, 17 and 22 of IPC and they are habitual criminals.

8. On 6.2.2014 at around 1920 hours in Village Esa Kala Pokhre where work was being conducted by a contractor through the workers, the gang members came there and fired from the automatic weapons on the

workers, as a result thereof one worker, Ram Iqbal S/o Mohan died on the spot. Pachu S/o Ramjatan got seriously injured and received several fire arm injuries. This incident created an atmosphere of helter skelter. People got scared and terrified. In respect of the said offence, Case Crime No.20 of 2014, under Sections 147, 148, 149, 302, 307, 506 and 120-B IPC and Section 7 Criminal Law Amendment Act was lodged and after completion of the investigation, charge sheet no.24 dated 14.5.2014 and other charge sheets were filed. Gang chart was approved by the District Magistrate.

9. Learned AGA has submitted that the accused-applicant is the most dreaded criminal, gangster and one of the biggest bahubali of India. Following criminal cases have been registered against the accused-applicant:-

- 1. NCR No.219 of 1978, under section 506 IPC;*
- 2. Case Crime No.169 of 1986, under Section 302 IPC,*
- 3. Case Crime No.106 of 1988, under Section 302 IPC,*
- 4. Case Crime No.410 of 1988, under Sections 147, 148, 149, 302 and 307 IPC,*
- 5. NCR No.233 of 1988, under Sections 504 and 506 IPC,*
- 6. Case Crime No.124 of 1990, under Sections 364, 395 and 397 IPC,*
- 7. Case Crime No.399 of 1990, under Sections 147, 148, 149 and 307 IPC,*
- 8. Case Crime No.682 of 1990, under Sections 147 and 506 IPC,*
- 9. Case Crime No.266 of 1990, under Sections 467, 468, 420, 120-B IPC,*
- 10. Case Crime No.44 of 1991, under Section 302 IPC,*
- 11. Case Crime No.172 of 1991, under Sections 147, 148 and 302 IPC,*
- 12. Case Crime No.294 of 1991, under Sections 307 and 302 IPC,*
- 13. Case Crime No.229 of 1991, under Sections 147, 148, 149 and 302 IPC,*
- 14. Case Crime No.456 of 1993, under Sections 365 and 387 IPC,*
- 15. Case Crime No.503 of 1993, under Section 5 TADA,*
- 16. Case Crime No.834 of 1995, under Sections 353, 504 and 506 IPC,*
- 17. Case Crime No.165 of 1996, under Sections 323, 352 and 307 IPC,*
- 18. Case Crime No.192 of 1996, under Section 3(1) U.P. Gangster Act,*

19. *Case Crime No.264 of 1996, NSA,*
20. *Case Crime No.237 of 1996, under Sections 120, 135, 136 Lo.Pra.Adhi.;*
21. *Case Crime No.19 of 1997, under Sections 364A, 365, 302, 120-B and 34 IPC;*
22. *NCR No.19 of 1997, under Section 506 IPC,*
23. *Case Crime No.121 of 1997, under Section 364A IPC;*
24. *Case Crime No.377 of 1997, under Section 506 IPC;*
25. *Case Crime No.58 of 1998, NSA;*
26. *Case Crime No.33 of 1999, NSA;*
27. *Case Crime No.17 of 1999, under Section 506 IPC;*
28. *Case Crime No.60 of 1999, under Sections 419, 420, 109 and 120-B IPC;*
29. *Case Crime No.106 of 1999, under Sections 307, 302 and 120-B IPC;*
30. *Case Crime No.126 of 1999, under Section 506 IPC;*
31. *Case Crime No.428 of 1999, under Section 2/3 U.P. Gangster Act;*
32. *Case Crime No.66 of 2000, under Sections 147, 336, 353 and 506 IPC;*
33. *Case Crime No.209 of 2002, under Section 3/7/25 Arms Act;*
34. *Case Crime No.131 of 2003, under Sections 353, 504 and 506 IPC;*
35. *Case Crime No.9A of 2004, under Sections 147, 148, 149, 307 IPC;*
36. *Case Crime No.808 of 2004, under Sections 147, 148, 149, 393, 307, 507, 506, 504 and 342 IPC;*
37. *Case Crime No.493 of 2005, under Sections 302, 506 and 120-B IPC;*
38. *Case Crime No.589 of 2005, under Sections 147, 148, 149, 302, 307, 404, 120-B IPC and Section 7 Criminal Law amendment Act;*
39. *Case Crime No.1580 of 2005, under Sections 147, 148, 149, 302, 435, 436, 153A IPC;*
40. *Case Crime No.1051 of 2007, under Section Gangster Act;*
41. *Case Crime No.361 of 2009, under Sections 302, 120-B IPC and Section 7 Criminal Law Amendment Act;*
42. *Case Crime No.1182 of 2009, under Sections 307, 506 and 120-B IPC;*
43. *Case Crime No.66 of 2009, under Section 3 Makoka Act;*
44. *Case Crime No.1866 of 2009, under Sections 147, 148, 149, 307, 302, 325, 404, 120-B IPC and Section 7 Criminal Law Amendment Act;*

45. *Case Crime No.399 of 2010, under Sections 302, 307, 120-B, 34 IPC, Section 7 Criminal Law Amendment act and Section 25 Arms Act;*
46. *Case Crime No.482 of 2010, under Section 3(1) U.P. Gangster Act;*
47. *Case Crime No.891 of 2010, under U.P. Gangster Act;*
48. *Case Crime No.20 of 2014, under Section 147, 148, 149, 302, 307, 506, 120-B IPC and Section 7 Criminal Law Amendment Act;*
49. *Case Crime No.05 of 2019, under Sections 386 and 506 IPC;*
50. *Case Crime No.04 of 2020, under Sections 419, 420, 467, 468, 471, 120B IPC Section 30 Arms Act;*
51. *Case Crime No.160 of 2020, under Section 3(1) U.P. Gangster Act;*
52. *Case Crime No.236 of 2020, under Sections 468, 471, 120-B IPC and Section 3 Sa.Sa.Nu, Adhi;*
53. *Case Crime No.55 of 2021, under Section 3(1) U.P. Gangster Act;*
54. *Case Crime No.369 of 2021, under Sections 419, 420, 467, 468, 471, 120-B, 506, 177 IPC and Section 7 Criminal Law Amendment Act;*
55. *Case Crime No.121 of 2021, under Section 25/26 Arms Act;*
56. *Case Crime No.185 of 2021, under Sections 419, 420, 467, 468, 471 and 120-B IPC;*
57. *Case Crime No.287 of 2022, under Section 3(1) Gangster Act; and*
58. *Case Crime No.08 of 2022, under Section 3(1) Gangster Act.”*

10. This Court while rejecting the bail application of the accused-applicant in Criminal Misc. Bail Application No.46494 of 2021 in Case Crime No.185 of 2021, under Sections 419, 420, 467, 468, 471 and 120-B IPC, Police Station Sarai Lakhansi, District Mau has said that the accused-applicant is a notorious criminal, who is an image of ‘Robin Hood’ in Northern India. He is harden and habitual offender, who has been in sphere of crime since 1986, but he has managed not a single conviction against him. He has more than 56 cases to his credit of heinous nature and he could manage his affairs in such a way that he did not receive a single conviction barring of two which have been rendered recently. This Court said that it is slur and challenge to the judicial system that such an dreaded and white collared criminal in the field of crime is undefeated and unabatted.

11. This Court has taken note of the criminal cases registered against the accused-applicant and said that the rich criminal horoscope of the accused-applicant made him to be popular public figure and he gets elected to Legislative Assembly for six consecutive times. It is a most unfortunate and ugly face of our democracy where a person on one hand facing almost two dozen sessions trials, but he gets elected by the public as their representative for six consecutive times.

12. If the present accused-applicant is not a gangster, then in this country no one can be said to be a gangster. He and his gang members accumulated enormous wealth by striking fear and terror in the minds and hearts of the people and his freedom would be peril of the law abiding citizens of this Court.

13. The present offence was committed only with object to strike fear that no one should dare to take contract except for the accused-applicant or his gang members and, therefore, the members of the gang opened indiscriminate fire from illegal automatic weapons on innocent workers, which resulted into death of one person and injury to others in order to strike fear and terror and give a message that one should not dare to take contract work of the Government in his area.

14. Considering the allegations and the rich criminal horoscope of the accused-applicant and also taking into consideration of the fact that in most of the cases the accused-applicant could secure acquittal as the witnesses turned hostile because of fear and terror or the witnesses got eliminated and a criminal, gangster and bahubali, the accused-applicant is not entitled to be enlarged on bail.

15. Bail application is accordingly *rejected*.

(Dinesh Kumar Singh, J.)

Order Date :- 6.1.2023

Rao/-