

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 25492 of 2023

Applicant :- Yaqoob Qureshi

Opposite Party :- State of U.P.

Counsel for Applicant :- Nasiruzzaman, Mohit Kumar Jaiswal

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard Shri N.I. Jafri, learned Senior Advocate, assisted by Shri Nasiruzzaman, learned counsel for the applicant and Shri P.C. Srivastava, learned Additional Advocate General, assisted by Shri Vikas Sahai, learned A.G.A. for the State and perused the record.

2. The present bail application has been filed by the applicant in Case Crime No. 495 of 2022, under Section 2/3 U.P. Gangsters and Anti-Social Activities (Prevention) Act, Police Station-Kharkhauda, District-Meerut, with the prayer to enlarge the applicant on bail.

3. Learned Senior Advocate for the applicant submitted that applicant is innocent and he has been falsely implicated in this case. The applicant is neither running any gang nor he is a member of any gang. The allegations levelled against the applicant, are wholly false and there is no credible evidence to support the same. In the Gang Chart, only one Case Crime No. 131 of 2022 under Sections 417, 269, 270, 272, 273, 120-B I.P.C., Police Station-Kharkhauda, District-Meerut, has been mentioned and in that case, applicant has already been enlarged on bail by this Court. There is no credible evidence to show that applicant is gang leader. The provisions of Gangster Act have been invoked against the applicant without any sufficient basis. The Applicant is a peace loving person and earlier he has been elected as Deputy Mayor of Meerut city and member of Legislative Assembly for several times. Referring to facts of the matter, it was submitted that applicant is father of co-

accused Imran Qurashi and Firoz, who are directors of M/s Al Faheem Meatex Pvt. Ltd, and that the said company is doing lawful business relating to slaughtering, packing and storing of meat and that at the relevant time, the renewal of license of said company was already pending. The applicant is neither director of the said company nor he was associated with day to day business of the said company. Merely because wife and two sons of applicant are directors of the said company, the applicant has been falsely implicated in this case due to political enmity.

4. Referring to criminal history of applicant, it was submitted that except one case (Crime No. 382 of 1986) under Sections 302, 307 I.P.C., the other cases shown in criminal history of applicant, are of minor nature and some of them relate to minor offences relating to election. In said case under Section 302 I.P.C., the applicant has already been acquitted. Referring to remaining cases shown in the criminal history, it was pointed out that criminal history of applicant has duly been explained. Learned Senior Advocate has referred case of the *Prabhakar Tewari Vs. State of U.P. and Anr., S.L.P.(Crl.) No. 9209 of 2019*, and submitted that in view of nature of accusations and evidence shown against the applicant, the bail application of applicant must not be rejected merely on the basis of criminal history.

5. It is further submitted that co-accused Imran Qurashi and Firoz, who are directors of the said company, have already been granted bail. Similarly the co-accused Sanjeeda Begum, who is also one of the director of the said company, has been granted anticipatory bail. It is further submitted that applicant is a senior citizen, aged about 64 years, and he has been a Member of Legislative Assembly for several times and that now, applicant is languishing in jail since 07.01.2023. It was submitted that in case applicant is released on bail, he will not misuse the liberty of bail and will co-operate in trial.

6. Learned Additional Advocate General has vehemently opposed the prayer of bail and argued that applicant is gang leader and there is long criminal history of applicant. It was submitted that applicant is having terror in the area and that no one dares to make any complaint or depose against him. In Case Crime No. 382 of

1986, under Sections 302, 307 I.P.C., shown in the criminal history of applicant, he was acquitted on the ground that witnesses have turned hostile. In some cases the applicant has obtained bail by concealing his criminal history. The provisions of Gangster Act has been invoked after due approval of Gang Chart. Referring to facts of the matter, it was submitted that there is long criminal history of 14 cases against the applicant. It was submitted that in view of nature of accusations, applicant is not entitled to be released on bail. However, it could not be disputed that above referred co-accused persons have already been granted bail.

7. I have considered rival submissions and perused the record.

8. For bail in offences under the Gangster Act, besides the application of general law on bail, the provisions of Section 19(4) of the U.P. Gangster and Anti-Social Activities (Prevention) Act, 1986, have also to be considered, which prescribe certain additional conditions, which have to be taken into consideration while deciding bail application in such matters. The said provisions read as follow :-

“Section-19(4)- Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Act or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless :

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

9. In the instant case, it may be stated that in the first information report it was alleged that applicant is leader of the gang and co-accused persons are members of said gang and that they, acting singly or collectively, indulge in commission of offences prescribed under the relevant chapter of Indian Penal Code for obtaining undue temporal, pecuniary, material gains. The main allegation is that they are indulging in illegal storage and business of meat and that a factory by the name of M/s Al Faheem Meatex Pvt. Ltd. is being run without any valid license and in that connection, a Case Crime No. 131/2022, under Sections 417, 269, 270, 272, 273, 120-B I.P.C., has already been registered against them at the Police Station-Kharkhauda, District-Meerut. The applicant is stated on bail in that case. Except the above referred incident of Crime No. 131/2022, no other incident has been

mentioned to support the allegation that the applicant is a leader or member of the gang or that he has indulged in commission of offences prescribed under section 2(b) of Gangster Act. It was shown that the applicant is not a director of the said company. The co-accused Imran Qurashi and Firoz, who are directors of the said company, have already been granted bail. The applicant is stated a senior citizen, aged about 64 years, and he is languishing in jail since 07.01.2023 and thus, the applicant has already undergone detention of about seven months and it appears that there is no possibility of early disposal of the trial.

10. Examining the matter at the touchstone of the provisions of section 19(4) of Gangster Act vis-a-vis the principle underlying the theory of criminal jurisprudence that an accused is presumed to be innocent till he is held guilty by a court of the competent jurisdiction and considering submissions raised on behalf of parties and considering the nature of accusations and evidence shown against applicant and the fact that the applicant has already undergone the detention of about seven months, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the bail application is hereby **allowed**.

11. Let the applicant -**Yaqoob Qureshi**, involved in aforesaid case crime, be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

- (i). The applicant shall not tamper with the evidence during the trial.
- (ii). The applicant shall not pressurize/intimidate the prosecution witness.
- (iii). The applicant shall appear before the Trial Court on the date fixed, unless personal presence is exempted.
- (iv). The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- (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 them from disclosing such facts to the Court or to any police officer or tamper with the

evidence.

12. In case of breach of any of the above condition, the Court concerned shall be at liberty to cancel bail of applicant in accordance with law.

Order Date :- 21.8.2023

Suraj