

Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42404 of 2024

Applicant :- Ankit Gurjar

Opposite Party :- State of U.P.

Counsel for Applicant :- Harishchandra Yadav, Syed Imran Ibrahim

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Shri Harishchandra Yadav, learned counsel for the applicant and Shri Amrit Raj Chaurasia, the learned AGA for the State.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 185 of 2024, under Sections 2/3 of U.P. Gangster and Anti Social Activities (Prevention) Act 1986 registered at Police Station Jarcha, District Gautam Budh Nagar.

3. This is an extremely disturbing matter that has been placed before this court wherein the applicant is in custody in connection with the aforesaid case since 29.11.2024 to face trial for the allegation of committing offence under Section 2/3 of the U.P. Gangster and Anti Social Activities (Prevention) Act 1986, whereas the punishment provided for the aforesaid offence is a minimum of two years imprisonment and the maximum sentence provided is ten years. The applicant has already spent more than the maximum period in custody for which he could be sentenced.

4. The learned counsel for the applicant has stated that in spite of the applicant having undergone custody for the maximum permissible period of sentence, even charges have not been framed till date.

5. This Court is repetitively being confronted with matters- more particularly under the U.P. Gangster and Anti Social Activities (Prevention) Act 1986, wherein the accused persons remain in custody

for very unreasonably long period, without any proceeding in trial. In numerous cases the Court has observed that persons who are in custody, confess their guilt merely in order to get the trial concluded, as they are unable to defend themselves in trial due to lack of resources. In all those cases, the Court has seen that the trial Courts convict the accused persons on the basis of their confession and sentence them to custody for the period already undergone.

6. This is a very disturbing state of affairs where justice is being denied to the underprivileged under trial convicts.

7. Moreover, Section 436 A of Cr.P.C. provides that:

"where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties, unless the Court passed a reasoned order otherwise."

8. The maximum period of sentence is ten years and half of it i.e. five years, was completed on 28.11.2019. The applicant's custody thereafter became illegal. Therefore, it appears that the applicant is in illegal detention since 29.11.2019.

9. Therefore, it is provided that the applicant shall be released from custody in the present case forthwith on his submitting a personal bond only.

10. Accordingly, this bail application stands **allowed**.

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[Subhash Vidyarthi, J.]

Order Date :- 28.2.2025/-Amit K-