

Court No. - 8

Case :- BAIL No. - 3373 of 2021

Applicant :- Baburam Loniya

Opposite Party :- State of U.P.

Counsel for Applicant :- Anurag Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rajesh Singh Chauhan,J.

Heard learned counsel for the applicant and the learned Additional Government Advocate for the State.

This Court has noticed that in some cases the gang-chart has been wrongly prepared indicating the incorrect crime cases against the accused persons.

In the present case, such mistake has been pointed out by the learned counsel for the applicant on 18.03.2021. Therefore, this Court has passed the order dated 18.03.2021 as under:-

"Heard learned counsel for applicant, learned AGA for the State and perused the record.

Learned counsel for applicant submits that applicant has been falsely implicated in the present case and in the cases shown in the gang chart at Serial No.8, 9 and 11, applicant is not an accused but the concerned police of Police Station Sadarpur, District Sitapur has falsely prepared the gang chart involving the applicant in the said cases. Learned counsel further submits that applicant has already been bailed out in rest of the cases shown in the gang chart.

Learned AGA prays for and is allowed three days time to seek instructions as to whether the applicant is an accused in Case Crime No.268 of 2018 under Sections 413, 411 IPC., Case Crime no.187 of 2019 under Sections 380, 411 IPC and Case Crime No.333 of 2019 under Sections 380, 411 IPC all relating to Police Station Sadarpur, District Sitapur as shown in the gang chart as also mentioned in para nos.12,13 and 15 of the bail application.

As prayed, put up as fresh on 23.03.2021."

Thereafter, this case was listed on 23.03.2021 and this Court has passed the order dated 23.03.2021 as under:-

"Heard learned counsel for the applicant and learned A.G.A. for the State.

Vide order dated 18.03.2021 learned A.G.A. was directed to verify certain facts with regard to three cases which has been shown as the criminal history of the applicant.

Learned A.G.A. submits that with regard to Case Crime No. 154 of 2005, under Section 459 and 411 I.P.C., the order of acquittal filed by the applicant contains the Crime Number as 145 of 2005 while Crime No. 154 of 2005 has been mentioned in the criminal history filed by the State.

It is also claimed by learned counsel for the applicant that in case appearing at Serial No. 11 of the criminal history of the applicant i.e. Case Crime No. 333 of 2019, under Section 350 and 411 I.P.C., pertaining to Police Station Sadarpur, District Sitapur has been shown wherein the applicant was not named in the F.I.R. and the penal sections have also been not written correctly. Learned A.G.A. would verify these facts till the next date of listing.

List this case on 26.03.2021, as fresh."

Learned counsel for the applicant has submitted that item Nos.6, 8, 9 & 11 indicated in the gang-chart (Annexure No.2) have wrongly been indicated.

However, learned Additional Government Advocate has submitted that as per the instructions received to him, item Nos.6 & 11 are wrongly / incorrectly indicated in the gang-chart.

Be that as it may, this is really sorry state of affairs that while preparing the gang-chart the due care and precaution has not been taken into account by the authorities concerned and the gang-chart has been prepared without verifying the relevant facts and informations relating to the crime cases carefully.

It appears that the gang-chart has been prepared in a cursory manner, which violates the fundamental rights of the accused persons provided under Article 21 of the Constitution of India and it creates hindrance in disposal of the bail application inasmuch as they are not granted bail by the Courts perusing the said gang-chart. The Court draws inference on the basis of that gang-chart, which is actually incorrect.

This Court puts strong exception of this careless and lethargic attitude of the authorities concerned, right from the authority, who prepares the gang-chart till the authority who finally grants approval thereof.

Therefore, the Superintendent of Police, District-Sitapur is hereby directed to file his/her personal affidavit replying the contents of the bail application explaining the reasons as to why the gang-chart against the present applicant has been prepared in a careless and lethargic manner. Such affidavit shall be filed within a period of two weeks.

List this case on **05.07.2021** as a first case.

If the personal affidavit of the Superintendent of Police, District-Sitapur is not filed within the aforesaid period, to be more precise on or before 2nd of July, 2021, he/ she shall appear in person before this Court on the next date fixed to assist the Court as well as to explain the reasons as observed above. Any consequential order may be passed on the next date as per the satisfaction of this Court.

The Senior Registrar of this Court is directed to intimate this order to the Superintendent of Police, District-Sitapur within three days through e.mail or any other mode which is convenient in the present circumstances of Covid-19 for its compliance.

Order Date :- 16.6.2021

Suresh/

[Rajesh Singh Chauhan,J.]