

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1917 of 2020

Applicant :- Mahavir Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Adeel Ahmad Khan, Om Prakash Singh (Senior Adv.), Rishabh Kumar

Counsel for Opposite Party :- G.A., A.C. Tiwari (Ac), Abhijeet Kumar Pandey

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant; learned AGA for the State; Shri A.C. Tiwari and Shri Abhijeet Kumar Pandey, learned counsel appearing for the informant and perused the record.

2. The FIR in question was lodged against three persons said to be the Directors of a company which had taken certain amounts and have not repaid. In pursuance to the said FIR, the applicant who is said to be the Director of the company, was arrested. Counsel for the applicant argues that the applicant is in custody since 21.11.2018. He draws my attention to the charge-sheet which discloses the name of 13 witnesses to be adduced by the prosecution for establishing the charge. He argues that out of the said 13 witnesses, only 2 of the witnesses have been examined whereas the applicant continues to be in custody since 21.11.2018. He argues that most of the offences alleged against the applicant are punishable for a term of 7 to 10 years except the offence under Section 467 IPC. He, thus, argues that the right of a speedy trial enshrined by virtue of Article 21 of the Constitution stands violated against the applicant.

3. A supplementary counter affidavit has been filed by Shri A.C. Tiwari, learned counsel appearing for the informant. He argues that substantial amounts were pleaded from the innocent investors, which had not been paid and the applicant being the Director of the company was substantially concerned with the affairs of the company and should not be enlarged on bail.

4. Learned AGA has also opposed the bail application.

5. Considering the fact that about five years have passed and the trial is not likely to be concluded in near future, thus, *prima-facie*, there is a violation of rights enshrined under Article 21 of the Constitution. It is well settled that a delayed trial cannot be a ground to keep the accused in custody forever, thus, on the basis of

the period of custody undergone by the applicant coupled with the fact that there is no material to suggest that the applicant, if enlarged on bail, can adversely affect the trial, the applicant is entitled to be enlarged on bail. In view thereof, the application is ***allowed.***

6. Let the applicant ***Mahavir Singh*** be released on bail in FIR No.0393 of 2018, under Section 406, 419, 420, 467, 468, 471, 504 & 506 IPC, P.S. Kotwali, District Ballia on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

- (a) The applicant shall execute a bond to undertake to attend the hearings;
- (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (c) 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 30.10.2023

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