

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2950 of 2023

Applicant :- Bhawan Yadav @ Dharam Singh

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Rajesh Kumar Gautam,Prabhakar Dwivedi,Rajesh Kumar Yadav

Counsel for Opposite Party :- G.A.,Seema Pandey

Hon'ble Vivek Varma,J.

1. As per office report dated 15.04.2023, notice of the instant application has also been served on the opposite party no. 4/ informant. However, when the case is called out, none appears on behalf of the said opposite party nor any counter affidavit has been filed on his behalf.

2. Heard counsel for the applicant, Ms. Seema Pandey, counsel for the opposite party no. 2/ High Court Legal Services Committee and learned AGA for the State-respondent.

3. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 136 of 2022, under Sections 452, 323, 504 & 354 of IPC, Section 7/8 of POCSO Act and Section 3(2)(va) of SC/ST Act, Police Station Ata, District Jalaun, during the pendency of trial.

4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case owing to certain other dispute between the parties. The applicant did not act inappropriately with the victim. The victim herself refused to undergo for medical examination. The applicant is a young boy, whose career will be jeopardized as the result of the instant case. Further, the trial is moving at a snail's pace and is not likely to conclude early. The applicant is not responsible for the delay in the trial. Inordinate delay in concluding the trial has led to virtually and indefinite imprisonment of the applicant without there being any credible evidence to implicate him in the offence and violates the rights of the applicant to a speedy trial. The applicant is in jail since 03.07.2022, having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA and counsel for the opposite party no. 2 have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that at present, there is no substantive evidence against the applicant. There is inordinate delay in trial. The applicant has no criminal antecedents and has remained confined for almost three months. Further, there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Bhawan Yadav @ Dharam Singh**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 2.11.2023
Sachin Mishra