

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3931 of 2023

Applicant :- Nadeem

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-respondent.
2. 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. 106 of 2022 under Sections 420, 467, 468, 471 and 120B of I.P.C., Police Station- Civil Lines, District- Moradabad, during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. At the time of filing of the bail bonds, the applicant was in jail and as such he was not instrumental in preparation of the documents produced. It is next contended that the co-accused, Smt Rukhsar has been granted bail by this Court vide order dated 13.01.2023 in Criminal Misc. Bail Application No. 936 of 2023. The criminal history of the applicant has been explained in para no. 6 of the bail application and para no. 2 of the supplementary affidavit. The applicant is in jail since 10.05.2022. 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 enshrined under Article 21. In case, he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that at this stage, there is no substantive evidence against the applicant. The co-accused, Smt Rukhsar has been granted bail by this Court. Further, the applicant has remained confined for more than one year and six months.

Even the prosecution could not bring on record any material, which would show that the trial has been delayed on account of any fault on the part of the present applicant. Thus, the 'right of speedy trial' of the applicant as enshrined under Article 21 of the Constitution of India is violated 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Nadeem**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. 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 :- 5.12.2023
Sachin Mishra