

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10002 of 2022

Applicant :- Himanshu Spencer

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Tiwari, Manish Kumar

Tripathi, Mukesh Chandra Gupta, Rizwan Ahamad, Shubham Prakash Gupta

Counsel for Opposite Party :- G.A., J.B. Singh

Hon'ble Vivek Varma, J.

1. Heard Sri Manish Kumar Tripathi, counsel for the applicant, Sri J.B. Singh, counsel for the informant and learned A.G.A. for the State-opposite party.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 359 of 2021 under Sections 420, 406, 120B, 354 ka, 354 kha, 504 and 506 of I.P.C., Police Station- Pallavpuram, District- Meerut, during the pendency of the trial.

3. Counsel for the applicant contends that the disputed amount has been withdrawn by the informant herself on various dates through her ATM Card. No amount was transferred from the account of the informant in the account of the applicant. The applicant has been falsely implicated owing to certain other dispute between the parties who are close relatives. The trial is moving at a snail's pace and is not likely to conclude early. Till today, even charges have not been framed. 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 20.11.2021, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and counsel for the informant have 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 no amount was credited in the account of the applicant from the account of the informant. At present, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. The applicant has remained

confined for almost two years. Further, there is an inordinate delay in trial and 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 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- **Himanshu Spencer**, involved in 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;
- (iii) shall not pressurize the prosecution witnesses.

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 :- 31.10.2023
Sachin Mishra