

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5896 of 2023

Applicant :- Rajat Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Pandey, Anil Kumar Dubey, Chandra Bhan Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant 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. 0064 of 2022, under Sections 364-A, 34 I.P.C., Police Station Kankarkheda, District Meerut during the pendency of the trial.
3. There is an allegation in the first information report regarding kidnapping of minor boy of the informant aged about 9 years. There is also allegation that ransom was demanded from the informant from a phone by unknown member.
4. Learned counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case owing to certain other disputes between the parties. The alleged SIM card, from which call was made demanding ransom, was issued in the name of Smt. Shahista. The victim was recovered from the house of Irshad. There is no evidence at this stage that the applicant demanded any ransom from the informant. It is next contended that other co-accused Jubair, Irshad and Junaid have been granted bail by this Court in Criminal Misc. Bail Application Nos. 8670 of 2022, Jubair v. State of U.P. and another; 3032 of 2022, Irshad v. State of U.P. and another; and 3182 of 2022, Junaid v. State of U.P. and another, vide orders dated 27.04.2023, 09.11.2022 and 03.05.2023 respectively. The applicant claims parity. It is further contended that the applicant is a law abiding citizen, he cooperated with the police investigation and had joined the trial. 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. Prior to the instant case the applicant does not have any criminal history, however, after his arrest in the instant case he has been implicated in other cases. The applicant is in jail since 02.02.2022 and if he is released on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant was not named in the first information report. The alleged phone call was made from a SIM issued in the name of Smt. Shahista. At this stage there is no substantive evidence against the applicant regarding demand of ransom. Identically placed co-accused Jubair, Irshad and Junaid have been granted bail by this Court. Moreover, the applicant has remained confined for almost one year and seven months and there is no hope of early conclusion of trial, and 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, therefore, 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- Rajat Kumar, 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 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 :- 16.10.2023
SKT/-