

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6160 of 2023

Applicant :- Ram Briksh Rajbhar

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Shiv Saran Sharma, Somendra Singh

Counsel for Opposite Party :- G.A., Kanchan Chaudhary

Hon'ble Sameer Jain, J.

1. This is the second bail application filed on behalf of the applicant. First bail application of the applicant has been dismissed by Hon'ble Justice Vivek Kumar Singh and on 13.03.2023 the instant matter has been released by him and, therefore, it is listed today before this Bench as this Bench is hearing the bail matters relates to Section 376 IPC.

2. Sri Suresh Bahadur Singh, learned AGA for the State apprised the Court that on 31.01.2023 notice has served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.

3. Heard Sri Prakhar Srivastava, Advocate, holding brief of Sri Somendra Singh, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State-respondent.

4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 156 of 2020, under Sections 376 IPC & 3/4 POCSO Act, Police Station- Chowk, District- Maharajganj, during pendency of the trial in the court below.

5. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and first bail application of the applicant was dismissed by this Court on merit on 27.07.2022 and he is pressing the instant second bail application on the ground that applicant is about 70 years' old and infirm person and he is in jail since 06.12.2020 i.e. for more than two and half years and till date trial of the case could not be concluded.

6. He further submitted that out of seven prosecution witnesses, five prosecution witnesses could be examined till date. He further submitted that considering the incarceration and age of the applicant, he may be enlarged on bail.

7. Per contra, learned AGA opposed the prayer for bail and submitted that as out of seven prosecution witnesses, five have already been examined and this is the second bail application and therefore, it would not be appropriate to release the applicant on bail at this stage.

8. I have heard learned counsel for the parties and perused the record of the case.

9. This is the second bail application filed on behalf of the applicant and first bail application of the applicant was dismissed by this Court on merit on 27.07.2022 and it appears that while rejecting the first bail application, trial court was directed to conclude the trial within a period of six months and although, since then more than a year has been passed but from the record, it reflects that out of seven prosecution witnesses, five have been examined till date, therefore, it appears that trial of the case is at its advance stage, therefore, I find substance in the argument advanced by learned AGA that it would not be appropriate to release the applicant on bail at this stage.

10. Accordingly, the instant bail application is ***rejected***.

11. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

12. However, considering the fact that applicant is about 70 years' old and he is in jail for more than two and half years, trial court is directed to conclude the trial of the case within a period of four months positively from the date of production of certified copy of this order, strictly as per the provisions of POCSO Act and Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

13. It is open for the applicant to renew his prayer for bail, if within four months trial of the case is not concluded, subject to the condition that delay should not be caused by applicant.

Order Date :- 13.10.2023 / KK Patel