

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9411 of 2023

Applicant :- Suneel

Opposite Party :- State of U.P.

Counsel for Applicant :- Azhar Hussain

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant, Sri Neeraj Kumar Sharma, learned AGA for the State-opposite party and perused the record.

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. 242 of 2022, under Section 420, 411 IPC, Police Station-Karhal, District- Mainpuri, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 20.09.2022 along with co-accused, Rahul @ Talim and has been falsely implicated in the present case. False recovery of Rs. 9,600/- and a chain of yellow metal has been shown from the applicant. There is no independent witness to the recovery. It is next contended that the identically placed co-accused, Rahul @ Talim, has been granted bail by this Court vide order dated 05.04.2023 passed in Criminal Misc. Bail Application No. 12686 of 2023 . The applicant claims parity. The criminal history of the applicant has been explained in para no. 12 of the affidavit. It is next contended that the applicant is in jail since 20.09.2022 and 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. It is further contended that the inordinate delay in concluding the trial has led to virtually an 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. 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 the applicant was not named in the first information report. There is no independent

witness to the alleged recovery. Identically placed co-accused, Rahul @ Talim, has been granted bail by this Court. The applicant has remained confined for more than one year and two months. 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- **Suneel**, 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;
- 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 :- 7.12.2023
Aditya