

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10218 of 2020

Applicant :- Ranveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Kameshwar Singh, Abhay Raj Yadav, Akash Tomar, Raj Kumar Sharma

Counsel for Opposite Party :- G.A., Pankaj Bharti

Hon'ble Siddharth, J.

Heard Sri Raj Kumar Sharma, learned counsel for the applicant; Sri Pankaj Bharti, learned counsel for the informant and learned A.G.A for the State.

Compliance affidavit filed today by learned A.G.A is taken on record.

By means of this application, the applicant, Ranveer, who is involved in Case Crime No. 446 of 2013, under Sections 302, 120-B IPC, P.S. Civil Lines, District Muzaffar Nagar and is in jail since 13.06.2019 is seeking enlargement on bail during the trial.

It is submitted by learned counsel for the applicant that similarly placed co-accused, Om Singh, has already been enlarged on bail by this Court by order dated 12.7.2023 passed in Criminal Misc. Bail Application No. 18930 of 2023. He has further submitted that since the role of the applicant is identical to that of co-accused, Om Singh, who has already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity and for the reasons given in the order of co-accused. There is no possibility of early conclusion of trial.

The prayer for bail has vehemently been opposed by learned A.G.A.

Regarding long incarceration of under trials prisoners in jail due to delay in conclusion of trial, the Hon'ble Apex Court in re: Union of India vs. K.A. Najeeb reported in AIR 2021 Supreme Court 712 has held in Para 16 of the judgment being reproduced herein below as follows :-

"This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee Representing Undertrial Prisoners v. Union of India, it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail."

Considering the submissions made by learned counsel for the applicant as well as learned A.G.A., this Court is of the view that the applicant has made out a case for grant of bail on the ground of parity.

In view of the above, let the applicant be released on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of the court concerned with the following conditions :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the Court on the date fixed in such proclamation then the Trial Court shall

initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 23.11.2023

Rohit