

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10801 of 2023

Applicant :- Rajkumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Prakash Rathor, Ashish Pandey, Govind Singh Rajpoot

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard Sri Satya Prakash Rathor, counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. for the state.
3. The present bail application has been filed by the applicant to enlarge him on bail in Case Crime No. 259 of 2022, under Section 307 of I.P.C., Police Station Panwadi, District Mahoba, during the pendency of trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. As per the allegations in the first information report, the applicant is alleged to have caused fire arm injury to one, Vandana. During the course of trial, the informant was examined as P.W. 1 and the injured Vandana was examined as P.W. 2. Both the prosecution witnesses in their examination-in-chief have denied the involvement of the applicant and have been declared hostile by the trial Court vide orders dated 16.08.2023 and 29.08.2023 respectively. The copy of the statements of the P.W. 1 and P.W. 2 are annexed as Annexure Nos. S.A.1 and S.A.2 to the supplementary affidavit. It is next contended that 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. The applicant is in jail since 31.12.2022, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the informant (P.W.1) and the victim (P.W.2) in their examination-in-chief have been declared hostile by the trial Court. Further, the applicant has no criminal antecedents and has remained confined for almost more than ten months 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 intimidate the witness, 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- **Rajkumar** 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 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.

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 :- 21.11.2023
Sachin Mishra