

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14553 of 2022

Applicant :- Suraj Pasi

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Chandra Dwivedi, Ajay Kumar Pathak, Ashish Kumar Dubey, Praveen Kumar Srivastava

Counsel for Opposite Party :- G.A., Ashok Kumar Tiwari

Hon'ble Ajay Bhanot, J.

As regards the delay caused in trial by non-examination or prevention of examination of witnesses by lawyers due to strike calls. [See: Noor Alam v. State of U.P. (Criminal Misc. Bail Application No.53159 of 2021)].

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 810 of 2021 at Police Station- Dhoomanganj, District- Prayagraj under Sections 302, 120-B IPC. The applicant is in jail since 29.06.2021.

The bail application of the applicant was rejected by the learned trial court on 02.03.2022.

The interim bail was granted to the applicant by this Court on 20.04.2023.

The following arguments made by Shri Ajay Kumar Pathak, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of interim bail:

1. There are material contradictions in the prosecution version stated by the informant in the FIR and his subsequent statements made before the police authorities.
2. The delay in recording of statement of the eye witness is fatal to the prosecution case.
3. The applicant has always cooperated with the investigations and had joined the trial. The applicant is innocent.
4. The trial is moving at a snail's pace and shows no sign of early conclusion.
5. Status report sent by the learned trial court records that as per the chargesheet the prosecution proposes to examine 44 witnesses as per the chargesheet. However, till date only one witness has been examined. The trial court is making delay. The applicant is not responsible for the delay in the trial.
6. Inordinate delay in concluding trial had lead to virtually an indefinite imprisonment of the applicant without being any evidence against the applicant. The right of the applicant to speedy trial has been violated.
7. The applicant has explained his criminal history. It is also contended that evidently the applicant is a soft target and a convenient scapegoat for the police authorities. The applicant has been nominated in the said cases only to

show the proficiency of the police investigators. The said criminal cases do not have any bearing on the instant bail application.

8. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Suraj Pasi be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 29.11.2023
Ashish Tripathi