

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14658 of 2023

Applicant :- Alam Shekh

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Kalim, Mary Puncha (Sheeb Jose)

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and Sri Shashank Shekhar, learned AGA for the State-respondent.

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. 116 of 2022, under Sections 457, 380, 411 IPC, Police Station Saidpur, District Ghazipur, 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 20.07.2022 in Case Crime No. 219 of 2022 alongwith co-accused Tahir Shekh and has been falsely implicated in the instant case. Recovery of Rs. 3,100/- has been shown from the applicant. The said amount belongs to him. It is next contended that identically placed co-accused Tahir Shekh has been granted bail by this Court vide order dated 17.01.2023 passed in Criminal Misc. Bail Application No. 58949 of 2022. The applicant claims parity. The criminal history of the applicant has been explained in para 3 of first supplementary affidavit. The applicant is in jail since 20.07.2022 and till date charges have not been framed in the instant case. 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. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA 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 FIR. The applicant was arrested on 20.07.2022 in

Case Crime No. 219 of 2022 along with co-accused Tahir Shekh. Identically placed co-accused Tahir Shekh has been granted bail by this Court. Further, the applicant has remained confined for more than one year 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant **Alam Shekh**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two heavy 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; and,
- (iii) shall not pressurize the prosecution witnesses.

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 :- 6.12.2023

Lbm/-