

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17628 of 2023

Applicant :- Rajeshwar Kanaujiya Alias Batesar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Ms. Aakansha Srivastava, Advocate holding brief of Sri Ashok Kumar Srivastava, learned counsel for the applicant and Sri Shatruhan Yadav, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 13 of 2020 (S.T. No. 415 of 2020), under Section 302 IPC, Police Station Kon, District Sonbhadra during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench of this Court on merit vide order dated 12.08.2021 passed in Criminal Misc. Bail Application No. 10440 of 2021 and she is pressing the instant second bail application on the ground that applicant in the present matter is in jail since 16.04.2020 i.e. for last more than three and half years and till date only six prosecution witnesses could be examined, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.

4. She further submits that considering the long incarceration of the applicant and delay in trial, applicant should be released on bail.

5. Per contra, learned AGA opposed the prayer for bail and submitted that this is second bail application filed on behalf of the applicant and it is a case, in which, there is direct evidence against the applicant on record and applicant is also having criminal

history of four cases, therefore, he should not be released on bail.

6. I have heard learned counsel for the parties and perused the record of the case.

7. This is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on merit on 12.08.2021. However, from the record it reflects that applicant is in jail for last more than three and half years but it is a case of Section 302 IPC, in which, there are eye witness account and further, applicant is also having criminal history of four cases.

8. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

10. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

11. However, considering the fact that applicant is in jail for last more than three and half years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of certified copy of this order strictly as per provision of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournments to either of the parties, if there is no legal impediment.

Order Date :- 14.12.2023

AK Pandey