

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 18783 of 2023

Applicant :- Mohd. Mehraj

Opposite Party :- State of U.P.

Counsel for Applicant :- Zafar Abbas

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

This is the second bail application.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 555 of 2022 at Police Station- Majhola, District- Moradabad under Sections 420, 467, 468, 471 IPC and Section 4/20, 21/25 Indian Telegraph Act. The applicant is in jail since 10.07.2022.

The first bail application of the applicant was rejected by this Court on 31.01.2023.

The following arguments made by Shri Sarve Nazir, 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 bail:

1. The applicant is a law abiding citizen who cooperated with the police investigations and had joined the trial.
2. The trial is moving at a snail's pace and shows no

signs of an early conclusion. The applicant is not responsible for the delay in the trial proceedings.

3. Inordinate delay in concluding trial has lead to an indefinite detention of the applicant without there being any credible evidence to implicate him in the offence. Right of the applicant to a speedy trial has been violated.

4. It is also contended that during the course of the trial no expert witness who will establish conversion of international call into local ones is proposed to be produced by the prosecution.

5. The applicant claims congruency in role and seeks parity in relief granted to the co-accused person Mohammad Kadeem who has been enlarged on bail by this Court by order dated 22.03.2023 in Criminal Misc. Bail Application No. 56254 of 2022.

6. The applicant does not have any criminal history apart from the instant case.

7. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial 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-**Mohd. Mehraj** 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.

From the arguments and the materials before the Court, it appears that the lack of proficiency of the U.P. Police in investigating offences where infraction of laws relating to technical devices are involved is evident. This Court has voiced its concern regarding the inadequacies in the police force on the following aspects:

A. Lack of proper supervision over investigations pertaining to I.T. Act and infraction of technology related laws.

B. Lack of proper training and failure to upgrade training institutions in the U.P. Police.

C. Absence of proper research and perspective planning in the U.P. Police as far as dealing with these offences is concerned.

D. These are issues which have to be addressed squarely by the highest authorities in the U.P. Police as well as the Ministry of Home, Government of U.P.

Shri Ashok Mehta, Additional Advocate General is requested to forthwith convene a meeting with the Principal Secretary(Home), Government of U.P. as well as Director General of Police, Government of U.P. and bring the aforesaid concerns of the Court to their notice and also direct them to prepare a detailed action plan in this regard.

I.T. offences as well as technology related offences pose a grave menace to the society. The police force has to keep one step ahead of the technological advances which is possible only when they upgrade their institutional infrastructure and give the requisite priority to such issues.

Order Date :- 6.11.2023

Vandit