

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19411 of 2023

Applicant :- Arvind

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Kumar Mishra, Shashi Bhushan Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. At the outset, counsel for the applicant placed reliance on the bail rejection order dated 7.4.2023 and submitted that inadvertently in the prayer clause section 34 IPC has not been mentioned. He prays for and is allowed to amend the prayer clause of the bail application accordingly, during the course of the day.

2. Heard learned counsel for the applicant and Sri N.K. Sharma, learned AGA for the State-respondent. Perused the record.

3. The present bail application has been filed by the applicant to enlarge him on bail in Session Trial No. 85 of 2018 (State vs. Dinesh and others) arising of Case Crime No. 0227 of 2016, under Sections 147, 148, 307, 34, 429, 447, 504 and 506 I.P.C., Police Station Tappal, District Aligarh during the pendency of trial.

4. Counsel for the applicant submits that earlier the applicant was granted bail by the Trial Court on 23.12.2016. Though, the applicant participated in the trial for considerable period, the trial could not conclude and at the same time due to unavoidable reasons the applicant could not appear before the court concerned on certain dates. Consequently, non-bailable warrant was issued and on 29.3.2023 the applicant surrendered and since then he is in jail. It is next contended that identically placed co-accused Dhara has been granted bail by this Court vide order dated 7.7.2023 passed in Criminal Misc. Bail Application No. 19430 of 2023. Counsel for the applicant on the basis of instructions further submits that if the applicant is enlarged on bail, he shall appear regularly before the trial court and shall not leave the station without permission of the court concerned.

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 applicant had earlier appeared and contested the proceedings, however, the trial could not conclude and further the applicant has presently remained confined for more than eight 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- **Arvind** 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 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; and,

(iv) the applicant shall not leave the district without the leave of the trial court.

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 :- 12.12.2023

S.S.