

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20568 of 2023

Applicant :- Ashif Shaifi

Opposite Party :- State of U.P.

Counsel for Applicant :- Ansar Ahmad, Mohammad Belal

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Ms. Sweta Pandey, Advocate, holding brief of Sri Mohammad Belal, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 52 of 2022, under Sections 394, 342, 411 IPC, Police Station- Saifai, District- Etawah, during pendency of the trial in the court below.
3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Court on 07.02.2023 and she is pressing the instant second bail application on the ground that applicant is in jail since 31.03.2022 i.e. for last more than one and half years and till date, not even a single prosecution witness could be examined and even charges against applicant were framed on 09.02.2023.
4. He further submitted that applicant is not having any previous criminal history.
5. Per contra, learned AGA opposed the prayer for bail and submitted that after considering the entire facts of the case, first bail application of the applicant was dismissed by this Court but could not dispute the fact that applicant is in jail since 31.03.2022 and till date, not even a single prosecution case could be examined.
6. He further could not dispute the fact that charges against the applicant were framed on 09.02.2023 and applicant is not having any criminal history.
7. I have heard learned counsel for the parties and perused the record of the case.
8. However, this is the second bail application filed on behalf of

the applicant and his first bail application was dismissed by this Court on 07.02.2023 considering the fact that looted money of the informant was alleged to have been recovered from his possession but from the perusal of the record, it reflects that applicant is facing trial under Sections 394, 342, 411 IPC and he is in jail since 31.03.2022 i.e. for last more than one and half years and till date, not even a single prosecution witness could be examined, however, charges were framed against the applicant on 09.02.2023 i.e. about nine months before. Further, applicant is not having any criminal history.

9. Therefore, considering the delay in trial and long incarceration of the applicant of more than one and half years and the fact that he is not having any criminal history, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant- **Ashif Shaifi** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

12. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

13. 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.

Order Date :- 11.12.2023 / KK Patel