

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20000 of 2023

Applicant :- Shashikant

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhir Kumar Agarwal, Satyawar Yadav

Counsel for Opposite Party :- G.A., Amaresh Yadava, Shubham

Hon'ble Sameer Jain, J.

1. Two supplementary affidavits filed today on behalf of the applicant are taken on record.
2. Heard Sri Sudhir Kumar Agrawal, learned counsel for the applicant, Sri Shubham, learned counsel for the informant and Sri Imran Khan, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 367 of 2017, under Sections 498-A, 304-B IPC & 3/4 D.P. Act, Police Station- Kotwali, District- Azamgarh, during pendency of the trial in the court below.
4. Learned counsel for the applicant submitted that this is the fourth bail application filed on behalf of the applicant and applicant is the husband of the deceased and his earlier three bail applications have already been dismissed by this Court and he is pressing the instant fourth bail application solely on the ground that applicant is in jail since 05.10.2017 i.e. for more than six years and till date, trial of the case could not be concluded.
5. He further submitted that in the charge sheet, there are as many as 29 prosecution witnesses and out of them till date, only two prosecution witnesses could be examined and statement of P.W. 3 is underway, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.
6. He further submitted that it is a case in which wife of the applicant died due to burn injury but in fact she committed suicide due to her mental condition and immediately after the incident, father of the applicant informant the police and on his information inquest was conducted and after two days, FIR of the present case was lodged.

7. He further submitted that applicant is not having any criminal history and therefore, considering the long incarceration of the applicant of more than six years, he may be enlarged on bail.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that this is the fourth bail application filed on behalf of the applicant, who is the husband of the deceased and his wife died within two years of her marriage due to burn injury in her matrimonial home and there is specific allegation of demand of dowry against him but both the counsels could not dispute the fact that applicant is in jail for more than six years and inquest was conducted on the information furnished by the father of the applicant and after two days, FIR of the present case was lodged.

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

10. However, this is the fourth bail application filed on behalf of the applicant and his three bail applications have already been dismissed by this Court and applicant is the husband of the deceased and his wife died within two years of her marriage due to burn injury and there is also specific allegation of demand of dowry but from the record, it reflects that applicant is in jail since 05.10.2017 i.e. for more than six years and till date trial of the case could not be concluded.

11. From the perusal of the order sheet, which was filed by the applicant, it appears that till date, only two prosecution witnesses could be examined and statement of P.W. 3 is being recorded and in the charge sheet, it appears that there are total 29 prosecution witnesses and therefore, I find force in the argument advanced by learned counsel for the applicant that trial of the case is moving with languid pace and there is no hope of its early disposal.

12. The Apex Court in the case of ***Union of India Vs. K.A. Najeeb (2021) 3 SCC 713*** observed that right of speedy trial is the fundamental right of an accused and if it is violated then applicant can be released on bail and even recently, in the case of ***Manish Sisodia Vs. Central Bureau of Investigation MANU/SC/1193/2023***, the Division Bench of the Apex Court also observed that if there is violation of fundamental rights of speedy trial of an accused then Court should grant bail to him.

13. Therefore, considering the facts and circumstances of the case discussed above, particularly the fact that applicant is in jail for

last more than six years and he has already served more than 50% of the minimum sentence provided under Section 304-B IPC, in my view, he is entitled to be released on bail.

14. Therefore, considering the facts and circumstances of the case discussed above, in my view applicant is entitled to be released on bail.

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

16. Let the applicant- **Shashikant** 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.

17. 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.

18. 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.

19. However, considering the facts and circumstances of the case discussed above, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order without granting any unnecessary adjournment to either of the parties on day-to-day basis, if there is no legal impediment.

Order Date :- 31.10.2023

KK Patel