

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30715 of 2021

Applicant :- Gajendra Singh @ Bhoora

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Verma, Ashish Kumar, G.S. Chauhan

Counsel for Opposite Party :- G.A., Vishvendra Singh

Hon'ble Sameer Jain, J.

1. Heard Sri G.S. Chauhan, learned counsel for the applicant, Sri Vishvendra Singh, learned counsel for the informant and Sri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 116 of 2019, under Sections 147, 148, 149, 323, 302, 504, 506 IPC, Police Station- Tajganj, District- Agra, 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 first bail application of the applicant was dismissed by this Court vide order dated 09.12.2020 and while rejecting the first bail application of the applicant, this Court directed the trial court to conclude the trial of the case within a period of one year but since then almost three years have been passed but trial of the case could be concluded.
4. He further submitted that applicant is in jail in the present matter since 20.11.2019 i.e. for almost four years and till date only five prosecution witnesses could be examined out of total 53 prosecution witnesses mentioned in the charge sheet, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal, therefore, considering the slow speed of the trial and long incarceration of the applicant for almost four years, he may be enlarged on bail.
5. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that it is case of Section 302 IPC and during investigation, Investigating Officer also recorded the statement of injured, which is dying declaration

of the deceased and according to the statement of the injured, applicant is the person, who caused fire arm injury to him and, therefore, it would not be proper to release the applicant on bail merely on the ground of his incarceration for four years and, therefore, the instant bail application should be dismissed.

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

7. 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 09.12.2020 and from perusal of the order dated 09.12.2020, it appears that while rejecting the first bail application of the applicant, this Court directed the trial court to conclude the trial of the case within one year strictly as per the provisions of Section 309 Cr.P.C. and on previous date i.e. on 13.10.2023, trial court was directed to submit a report with regard to current status of the trial and from the report of the trial court, which is now on record, it appears that till date, statements of five witnesses have been recorded and 14 prosecution witnesses are yet to be examined and from the report of the trial court, it also reflects that trial court made further request for additional time for conclusion of the trial.

8. However, from the record, it reflects that applicant is in jail for almost four years and while rejecting the first bail application of the applicant, this Court also directed the trial court to conclude the trial within one year but it is a case under Section 302 IPC and there is statement of the deceased recorded by the Investigating Officer under Section 161 Cr.P.C.

9. Further, from the report of the trial court, it reflects that trial court made efforts to conclude the trial and made further request for additional time for its conclusion.

10. However, right of speedy trial is the fundamental right of an accused and on the ground of its violation, bail can be considered but there must be a balance between seriousness of charges and incarceration suffered by the accused. In the present matter applicant is facing trial under Section 302 IPC, in which minimum punishment is life imprisonment, which can be extended upto capital punishment and as per the allegation, applicant is the person, who caused injury to the deceased through fire arm.

11. Therefore, considering the facts and circumstances of the case discussed above, I am not inclined to release the applicant on bail

at this stage.

12. Accordingly, the instant bail application is **rejected**.

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.

14. 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 nine months from the date of production of certified copy of this order, strictly as per the provisions of Section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 3.11.2023

KK Patel