

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28453 of 2022

Applicant :- Vikas

Opposite Party :- State of U.P.

Counsel for Applicant :- Akshaya Kumar,Rajesh Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 70 of 2021 at Police Station- Kurh Fatehgarh, District- Sambhal, under Sections 498-A, 304-B IPC and Section 3/4 D.P. Act. The applicant is in jail since 14.06.2021.

The bail application of the applicant was rejected by the learned trial court on 11.05.2022.

The following arguments made by Shri Akshyaya Kumar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Chandan Agrawal, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant is the husband of the deceased.
2. The applicant never demanded dowry nor did he torture the victim.
3. The applicant is a law abiding citizen who cooperated with the police investigations and had

joined the trial.

4. 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.

5. The status report sent by the trial court records that all prosecution witnesses have been examined.

6. 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.

7. Continued incarceration of the applicant will disable him from framing an effective defence strategy, gathering evidence in his support thereof and tendering the same before the learned trial court to absolve himself.

8. 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.

This Court in **Prabhat Gangwar v. State of U.P. (Criminal Misc. Bail Application No.2586 of 2023)** while considering the grant of enlarging an accused

on bail for preparing his defence and gathering evidence to tender the same before the learned trial court for establishing his innocence held:

"Nature and gravity of the offence is certainly liable to be considered by the court while considering grant of bail. The Court has also to factor the likelihood of whether the accused committed the offence while deciding a bail application. The court also has to determine in the facts of the case whether the accused needs to be set at liberty to frame his defence and gather evidence to refute the prosecution case and establish his innocence. The bail court has to examine whether continued incarceration would disable the accused from tendering an effective defence of his case. This is a demand of processual fairness in criminal jurisprudence.

Setting an accused at liberty at large on this ground cannot be applied mechanically in all cases. The issue has to be considered in the facts and circumstances of each case while doing so. All relevant facts including the evidences in the record, the conduct of the accused during the investigation as well as trial have to be adverted to before a decision is made in this regard."

Considering the aforesaid parameters in light of the

above facts of this case, I am of the opinion that the applicant is entitled for bail.

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- **Vikas** 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.

This bail has been granted to the applicant to gather evidence and to tender it before the trial court. In case the applicant does not cooperate with the trial proceedings or unnecessarily delays the trial, the learned trial court shall records its finding to that effect and cancel the bail of the applicant without recourse to this Court.

Order Date :- 16.10.2023

Vandit