

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33855 of 2021

Applicant :- Sandeep Dhobi

Opposite Party :- State of U.P.

Counsel for Applicant :- Jai Singh Yadav, Bhavisya Sharma, Patgendra Bhushan Misra, Sarvesh Kumar Dubey

Counsel for Opposite Party :- G.A., Sahibe Alam

Hon'ble Vikram D. Chauhan, J.

1. Heard Sri Bhavisya Sharma, learned counsel for the applicant, learned AGA for the State and Sri Sahibe Alam, learned counsel for the informant and perused the record.

2. This is third bail application filed on behalf of the applicant. The first bail application was rejected by this Hon'ble Court vide order dated 06.12.2018 passed in Criminal Misc. Bail Application No. 32650 of 2018 (Sandeep Dhobi Vs. State of U.P.). In the order dated 06.12.2018 direction was issued to conclude the trial expeditiously preferably within a period of six months from the date of production of the certified copy of the order. Subsequently, second bail application was preferred, which was too rejected vide order dated 08.12.2020 with direction to the trial court to make all endeavours to conclude the trial within a period of six months from the date of receipt of the certified copy of the order.

3. Learned counsel for the applicant submits that despite the orders dated 06.12.2018 and 08.12.2020 till date the proceedings before the trial court has not been concluded. The applicant has participated in the proceedings before the trial court. The prosecution witnesses have already been examined and only formal witnesses are to be examined. It is further submitted that earlier the prosecution evidence was closed and now the witnesses have been summoned for recording of their statements in the connected Arms Act case. Learned counsel for the applicant further submits that the applicant is languishing in jail since 23.05.2017. It is also submitted that the accused is entitled for speedy trial under Constitutional mandate. In the present case despite the specific directions of this Court the proceedings of the trial court has not been concluded in a time frame prescribed.

4. Sri Sahibe Alam, learned counsel for the informant submits that in the present case evidence has already been completed and the evidence in the connected Arms Act is to be recorded. He does not dispute the fact that the applicant is languishing in jail for more than six and half years.

5. Learned AGA does not dispute the aforesaid facts.

6. It is to be seen that in the present case the applicant is languishing in jail since 23.05.2017 i.e. almost for about six and half years. In the present case, the applicant has been prosecuted under Section 307 IPC. According to the learned counsel for the applicant prosecution witnesses have already been examined and the witnesses in the connected Arms Act are to be examined. There was a direction of this Court to conclude the proceedings of the trial within a period of six months vide orders dated 06.12.2018 and 08.12.2020, till date trial has not been completed within the aforesaid time frame.

7. The right of an accused for speedy trial is the constitutional mandate under Article 21 of the Constitution that normally an accused cannot remain in jail for indefinite period unless he has been held guilty by the competent court. The trial court has not concluded the proceedings of the trial in letter and spirit as directed by this Court vide orders dated 06.12.2018 and 08.12.2020. The prosecution has not offered any explanation as to why the proceedings have not been concluded in a time bound manner.

8. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let applicant **Sandeep Dhobi** involved in Case Crime No. 173 of 2017, under Sections 307 IPC, Police Station Daraganj, District Allahabad be released on bail on furnishing a personal bond and **two heavy sureties** each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.

iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make himself available for interrogation by a police officer as and when required.

iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

v. The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

vi. The applicant shall not leave India without the previous permission of the Court.

vii. In the event, the applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.

viii. The applicant is hereby directed that he shall remain present before the court concerned on the date fixed and he shall not seek any adjournment. In case the applicant remains absent himself, the trial court will be at liberty to issue warrant against the applicant for his immediate arrest.

10. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

11. The trial court is hereby directed to conclude the proceedings of the trial within a period of four months from today and a date for not more than 15 days shall be fixed by the trial court.

12. The prosecution/State is also directed to produce the evidence before the trial court within the aforesaid time frame. In case the evidence is not produced within the aforesaid time frame, the Superintendent of Police/Senior Superintendent of Police of the district concerned shall file an affidavit before the trial court as to why the evidence has not been produced.

Order Date :- 7.11.2023

Prajapati