

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55338 of 2022

Applicant :- Sani Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Roopesh Kumar Nigam

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. This is second bail application moved on behalf of the applicant. The first Criminal Misc. Bail Application No. 49201 of 2020 has been rejected by Hon'ble Mr. Justice Ashwani Kumar Mishra, vide order dated 29.06.2021.

2. Vide order dated 27.04.2022 passed by Hon'ble The Chief Justice, bail applications which are filed subsequent to such bail applications, which were decided two years before shall be listed as per the roster before regular Court dealing with the matter. Accordingly the instant bail application is before this Court.

3. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

4. Learned counsel for the applicant submits that the applicant is the husband of the deceased and he has been falsely implicated in the charges levelled against him and that there is no direct evidence against the applicant. Learned counsel further argued that while rejecting the first bail application of the applicant, the co-ordinate Bench of this Court had directed the trial Court to conclude the trial expeditiously, however more than two years have lapsed but the trial has not yet been concluded, though the

trial has commenced and during the course of trial, the statement of P.W.1 was recorded before the Court below, who was declared hostile by the learned trial Court, copy of which statement is annexed as Annexure-10 to the affidavit accompanying the bail application. It is further submitted by learned counsel for the applicant that trial is progressing at a slow pace and has relied upon the judgment rendered by Hon'ble the Supreme Court in the case of ***Indrani Pratim Mukerjee Vs. Central Bureau of Investigation and another*** passed in Special Leave to Appeal (Crl.) No. 1627 of 2022 to submit that prolonged incarceration of a person as an under trial is against his fundamental rights under Article 21 of the Constitution of India. It is submitted that there is no occasion now for the applicant to tamper with any witness or to flee from judicial process. He thus submits that no offence against the applicant is made out. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 23.07.2019 having no criminal history.

5. Per contra, learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence.

6. Considering the entire facts and circumstances of the case,

submissions of learned counsel for the parties, nature of evidence, and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, this Court is of the view that the applicant has made out a case for bail. Hence the bail application is allowed.

7. Let applicant **Sani Kumar** involved in Case Crime No.548 of 2018 (Sessions Trial No. 159 of 2019) under Sections 498A, 304B, 323, 506 I.P.C., and Section 3/4 of Dowry Prohibition Act, Police Station Saurikh, District Kannauj, be released on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

A. The applicant shall not tamper with the evidence during the trial.

B. The applicant shall not pressurize/ intimidate the prosecution witness.

C. The applicant shall appear before the trial court on the date fixed, unless personal presence is exempted.

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

E. 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 them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

8. In case of breach of any of the above condition, the trial Court shall be at liberty to cancel the bail of the applicant in accordance with law.

Order Date :- 2.12.2023
Mustaqeem/S.Ali