

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38113 of 2023

Applicant :- Vishnu Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajeev Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 160 of 2022 at Police Station Tirwa District Kannauj under Section 366, 120B, 302, 201 I.P.C. The applicant is in jail since 31.07.2022.

The bail application of the applicant was rejected by the learned trial court on 07.09.2022.

The following arguments made by Shri Anurag Dubey, learned counsel holding brief of Shri Rajeev Tiwari, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the F.I.R.
2. One Ramvir has been nominated as the principal offender in the F.I.R.
3. The applicant has been nominated in a statement made

by the principal offender Ramvir before the police authorities while in police custody of the latter. The said statement insofar as it implicates the applicant is not admissible in evidence.

4. The applicant resides in Punjab and is only acquaintance of the principal offender.

5. The applicant simply happened to be at the wrong place at the wrong time with the wrong person.

6. The applicant had no motive to commit the crime.

7. Incriminating recoveries were infact made from the principal offender Ramvir and the applicant has been falsely implicated since he happened to be with the said Ramvir at the time of his arrest.

8. Role of the applicant is distinguishable from the principal offender Ramvir.

9. There is no direct evidence against the applicant. This is a case of circumstantial evidence.

10. Chain of incriminating circumstances against the applicant is not complete.

11. Prosecution evidence does not connect the applicant with the crime.

12. The applicant does not have any criminal history apart from this case.

13. The applicant is a law abiding citizen who cooperated

with the police investigations and had joined the trial.

14. The trial is moving at a snail's pace and is not likely to conclude anytime in the near future. The applicant is not responsible for the delay in the trial.

15. The applicant never influenced witnesses and tampered with the evidence.

16. Inordinate delay in concluding trial has led to virtually an indefinite imprisonment of the applicant without there being any credible evidence to implicate him in the offence and violates the rights of the applicant to speedy trial.

17. The status report sent by the learned trial court records that the prosecution proposes to examine 15 witnesses to bring home the charges. Till date only four prosecution witnesses have been examined.

18. The said report also discloses that one prosecution witness Arvind has not been responding to the summons nor has appeared in pursuance of the bailable warrant.

19. The prosecution witness is deliberately delaying the conduct of the trial only to prolong the incarceration of the applicant.

20. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of her influencing

witnesses, tampering with the evidence or reoffending.

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- **Vishnu Kumar** 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.

Order Date :- 16.10.2023

Dhananjai