

**Court No. - 69**

**Case :-** CRIMINAL MISC. BAIL CANCELLATION APPLICATION No. - 186 of 2019

**Applicant :-** Urmila Yadav

**Opposite Party :-** State of U.P. and Another

**Counsel for Applicant :-** Raj Kumar Tripathi

**Counsel for Opposite Party :-** G.A.,Nabi Ullah,Suraj Kumar Singh

**Hon'ble Samit Gopal,J.**

1. List revised.

2. Heard Sri Raj Kumar Tripathi, learned counsel for the applicant, Sri Suraj Kumar Singh, learned counsel for the opposite party no.2, Sri Triveni Saran Rai, learned A.G.A for the State and perused the record.

3. This is a bail cancellation application with the prayer to cancel the bail granted to opposite party no.2 Shashi Bhushan Gupta vide order dated 20.4.2018 passed in Criminal Misc. Bail Application No.14654 of 2018 (Shashi Bhushan Gupta vs. State of U.P.) arising out of Case Crime No.188 of 2018 under Sections 376, 313, 506 IPC, Police Station Kavi Nagar, District Ghaziabad.

4. Learned counsel for the applicant submits that he does not intend to file any rejoinder affidavit to the counter affidavit filed on behalf of the accused-opposite party no.2.

5. The sole argument as raised by learned counsel for the applicant by placing the order granting bail to the opposite party no.2 is that the Court had in para (v) directed as follows:-

*"The trial court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicant."*

6. It is argued by learned counsel for the applicant by placing order sheet of the trial court which is annexure no.5 to the affidavit from 13.7.2018 up to 9.4.2019 that within the said period, the opposite party no.2/accused has taken as many as 24 adjournments in the matter and due to the same it is amply clear that there is total non-cooperation by him with the trial court due to which the trial is lingering on. Looking to the same, the bail granted to opposite party no.2 be cancelled.

7. Learned counsel for the opposite party no.2 while placing order sheet of the trial court which is C.A-2 to the counter affidavit has taken plea that the trial is at the verge of conclusion and as of now the statement of D.W-3 being defence witness is being recorded. He submits that although there had been adjournment sought by

the opposite party no.2 but as of now he undertakes that the opposite party no.2 will not seek any adjournment on any date in the trial and shall make himself available before the trial court on each and every date fixed without any fail.

8. Learned counsel for the applicant in rebuttal submits that the undertaking on behalf of opposite party no.2 be recorded and appropriate directions be issued to the trial court for conclusion of trial at the earliest which would suffice for the applicant.

9. In the limited arguments of learned counsel for the parties and the undertaking of learned counsel for the opposite party no.2, it is provided that the opposite party no.2 shall make himself available on each and every date before the trial court without fail. The trial court may proceed with the trial expeditiously since the same is at the stage of recording of the defence evidence. In case the trial court comes to a conclusion that the opposite party no.2 is unnecessarily seeking any adjournment and the same is for the purpose of lingering the trial, the trial court may proceed to cancel the bail granted to him by this Court.

10. The present bail cancellation application is **disposed off** with the above directions.

(Samit Gopal, J.)

**Order Date :- 8.12.2023**

Gaurav Kuls