

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27445 of 2023

Applicant :- Rajesh Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- S.M.Faraz I. Kazmi

Counsel for Opposite Party :- G.A.,Mohd Aamir

Hon'ble Ajay Bhanot,J.

This is the second bail application.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No.1389 of 2019 at Police Station Kavi Nagar District Ghaziabad under Sections 420, 406, 504 and 506 I.P.C. The applicant is in jail since 12.10.2022.

The applicant was granted bail by this Court by order dated 15.12.2021 with the following conditions:

1. The applicant shall deposit refunds which were credited by RTGS to the bank account of the applicant in an interest bearing account to be opened on the directions of the learned Chief Judicial Magistrate, Ghaziabad.
2. The learned Chief Judicial Magistrate, Ghaziabad, shall direct for release of the aforesaid amount in favour of the informant.
3. In case the aforesaid amount is not deposited within a period of six months from today, the bail of the applicant stand cancelled without recourse to this Court. An order to be passed by the learned Chief Judicial Magistrate, Ghaziabad, that the bail condition of deposit of the amount has not been fulfilled and the applicant is liable to be arrested.
4. The applicant will not tamper with the evidence during the trial.
5. The applicant will not influence any witness.
6. The applicant will appear before the trial court on the date fixed,

unless personal presence is exempted.

7. 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 to any police officer or tamper with the evidence.

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

Learned counsel for the applicant fairly submits that the applicant has failed to honour the undertaking given by this Court. The applicant made a false statement before the court undertaking to repay the entire amount. However, he failed to do so. On the ground of false undertaking the bail application is rejected.

Without going into the merits of the case, the bail application is dismissed.

Considering the gravity of the offence, interest of justice will be served by directing the learned trial court to expedite the trial within a stipulated period of time.

The trial court is directed to conclude the trial within a period of one year from the date of receipt of a certified copy of this order. The learned trial court shall proceed with the hearing on a day to day basis to ensure that the above stipulated timeline of one year is strictly adhered to. All witnesses and counsels are directed to cooperate with the trial proceedings.

The trial court has also to be conscious of the rights of the accused persons and is under obligation of law to ensure that all expeditious, necessary and coercive

measures as per law are adopted to ensure the presence of witnesses. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The learned trial court shall issue summons by regular process as per Section 62 Cr.P.C. and also by registered post as contemplated under Section 69 Cr.P.C. to expedite the trial.

The learned trial court shall promptly take out all strict coercive measures against all the witnesses in accordance with law who fail to appear in the trial proceeding. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The police authorities shall ensure that warrants or any coercive measures as per law taken out by the learned trial court to ensure that the attendance of the witnesses are promptly executed.

The Senior Superintendent of Police, Ghaziabad shall file an affidavit before the trial court on the date fixed regarding status of execution of the warrants/service of summons taken out by the learned trial court.

In case there is a failure on part of the police authorities to execute the warrants or other coercive measures, the Senior Superintendent of Police, Ghaziabad shall state

the reasons for the same in the said affidavit and also show the steps taken to execute the warrants. The Senior Superintendent of Police, Ghaziabad shall simultaneously inform the Additional Director General of Police (ADG) Meerut Zone, about the aforesaid failure of the police authorities in the first instance to execute the warrants and coercive measures issued by the learned trial court. If required, the Additional Director General of Police (ADG) Meerut, may issue an appropriate directions to ensure that the warrants issued are promptly executed by the learned trial court.

The delay in execution of warrants and consequent absence of witnesses is one of the principal causes of delays in criminal trials and has to be addressed effectively by all stakeholders.

The trial judge shall submit a fortnightly report on the progress of trial and the steps taken to comply with this order to the learned District Judge.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Ghaziabad by the Registrar (Compliance) by FAX.

Order Date :- 21.11.2023

A Gautam