

Neutral Citation No. - 2023:AHC:235603

Reserved On:- 30.11.2023

Delivered On:- 12.12.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27466 of 2023

Applicant :- Arun Kumar Pathak

Opposite Party :- State of U.P.

**Counsel for Applicant :- Atharva Dixit,Dhirendra Prasad Mishra,Sr.
Advocate**

Counsel for Opposite Party :- G.A.,Shashi Kumar Dwivedi

Hon'ble Siddharth, J.

1. Heard Sri Manish Tiwary, learned Senior Counsel assisted by Sri Atharva Dixit, learned counsel for the applicant; Sri Shashi Kumar Dwivedi, learned counsel for the informant; learned AGA for the State and perused the material placed on record.
2. The instant bail application has been filed on behalf of the applicant, Arun Kumar Pathak, with a prayer to release him on bail in Case Crime No. 92 of 2021, under Sections- 147, 148, 149, 323, 504, 506, 302, 120-B, 392, 412 and 34 IPC, Police Station- Lalapur, District- Prayagraj.
3. This is second bail application of the applicant.
4. The first bail application of the applicant was rejected by this court on 21.02.2023 directing the trial court to conclude the trial against the applicant within period of one year.
5. Learned ounsel for the applicant has submitted that ballistic report has been received on 02.09.2022 which is in favour of the applicant. He has further submitted that accused, Vikas Pathak, has already been

enlarged on bail on 24.02.2022. Co-accused, Anil Kumar Pathak, Ashok Pathak, Prakash Pathak and Prashant Pathak, were enlarged on bail on 11.04.2022. He has further submitted that the prosecution is delaying the disposal of the trial. Only P.W.-1, Mukesh Kumar Tripathi, was examined and after inordinate delay of three months, his cross-examination was recorded. He has submitted that all the accused persons are cooperating with the trial and there is no delay on their part.

6. Learned counsel for the informant has vehemently opposed to this bail application. He has submitted that the grounds were argued by the learned Senior Counsel for the applicant now were available to him while arguing the first bail application. He has submitted that the applicant and co-accused are not cooperating with the trial. A transfer application was moved on behalf of the applicant before the court below for transfer of the trial to another court which was also rejected on 16.11.2022. Then a transfer application was filed before this court which was rejected on 25.04.2023. Thereafter, another transfer application was moved before the trial court before the District Judge who dismissed the same with the finding that earlier also such application was made which was rejected. He has submitted that no fresh ground has been made out for filing the second bail application. There is no change in circumstances.

7. Learned A.G.A has also opposed the bail application of the applicant.

8. After hearing the rival contentions, this Court find that there is no fresh ground for entertaining the second bail application on behalf of the applicant by filing repeated transfer applications. Trial has not been permitted to proceed with the trial as per order of this Court.

9. The second bail application is accordingly, ***rejected***.

10. Trial court is directed to conclude the trial within further period of one year from the date of production of certified copy of this order before the trial court.

Order Date :- 12.12.2023

Rohit