

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28308 of 2023

Applicant :- Manoj Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Tripathi, Keshav Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Abhishek Tripathi, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 273 of 2022, under Sections 409, 420, 467, 468, 471 IPC and Section 66C I.T. Act, Police Station Kotwali Fatehgarh, District Farrukhabad during pendency of the trial.
3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court on merit vide order dated 21.02.2023 passed in Criminal Misc. Bail Application No. 5206 of 2023 and he is pressing the instant second bail application on the ground that applicant in the present matter is in jail since 17.08.2022 i.e. for more than a year and till date not even single prosecution witness could be examined.
4. He further submits that from the order-sheet, it reflects that charges could only be framed against the applicant on 02.06.2023. He further submits that after rejection of first bail application of the applicant, bail application of co-accused Faizan Ali has been allowed by the co-ordinate Bench of this Court vide order dated 01.05.2023, which has been annexed as Annexure-9 to the affidavit filed in support of present bail application and case of applicant is at par with him, therefore, in view of the circumstances argued above, applicant should be enlarged on bail.
5. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that all the offences are triable by Magistrate-I class and trial of the case is pending before CJM concerned and

applicant in the present matter is in jail since 17.08.2022 i.e. for more than a year and till date not even single prosecution witness could be examined. He further could not dispute the fact that co-accused Faizan Ali has been enlarged on bail by the co-ordinate Bench of this Court after rejection of first bail application of the applicant.

6. I have heard learned counsel for the parties and perused the record of the case.

7. However, this is second bail application filed on behalf of the applicant and first bail application of the applicant was dismissed on merit by this Bench vide order dated 21.02.2023 but it appears that trial of the case is pending before CJM concerned and applicant in the present matter is in jail since 17.08.2022 i.e. for more than a year and till date not even single prosecution witness could be examined.

8. Further, from the perusal of the order-sheet, which was produced by learned counsel for the applicant during the course of argument, which is taken on record and marked as 'A', it appears that on 02.06.2023 charges were framed against him, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal. Further, co-accused Faizan Ali has been enlarged on bail by the co-ordinate Bench of this Court after rejection of first bail application of the applicant. Further, applicant is not having any criminal history.

9. Therefore, considering the facts and circumstances of the case, particularly the long incarceration of the applicant of more than a year, in my view, applicant is entitled to be released on bail.

10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

11. Let the applicant - **Manoj Kumar** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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

or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

12. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

13. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 20.11.2023

AK Pandey