

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27912 of 2023

Applicant :- Raju @ Rajveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar Kulshrestha

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Counter affidavit filed today on behalf of the State is taken on record.
2. Heard Sri Deepak Kumar Kulshrestha, learned counsel for the applicant and Sri Jhamman Ram, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 347 of 2018, under Sections 147, 302 IPC, Police Station- Fatehabad, District- Agra, during pendency of the trial in the court below.
4. Learned counsel for the applicant submitted that this is the third bail application filed on behalf of the applicant and his earlier two bail applications were dismissed by this Court on merit and however, applicant is the husband of the deceased and there is also dying declaration of the deceased on record against the applicant but applicant is in jail in the present matter since 06.06.2018 i.e. for almost five and half years and till date, trial of the case could not be concluded.
5. He further submitted that in the charge sheet there are as many as 17 prosecution witnesses but till date only three prosecution witnesses could be examined. He further submitted that on 21.12.2021 last witness was examined as P.W. 3 and since then almost two years have been passed but statement of P.W. 4 could be recorded till date, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.
6. He further submitted that applicant is suffering with tuberculosis with hepatatis-C and his condition is quite serious and this fact is

evident from the report of the jail doctor, therefore, considering the long incarceration of the applicant and his medical condition, he should be released on bail.

7. Per contra, learned AGA opposed the prayer for bail and submitted that this is the third bail application filed on behalf of the applicant and he is the husband of the deceased and deceased in her dying declaration categorically stated that applicant abused her.

8. He further submitted that from the report of the jail doctor, which has been annexed along with the counter affidavit, it appears that however, applicant is suffering with tuberculosis with hepatitis-C but his treatment is going on in the jail and there is no report of the doctor that his treatment is not possible in jail, therefore, considering the facts and circumstances of the case applicant should not be released on bail.

9. However, learned AGA further suggested that this Court may direct the trial court to conclude the trial within a stipulated period of time considering the medical condition of the applicant and his long incarceration.

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

11. This is the third bail application filed on behalf of the applicant and his earlier two bail applications were dismissed by this Court on merit and it appears that the instant third bail application is filed by the applicant on two grounds. First ground is that he is in jail in the present matter for almost five and half years and till date, trial of the case could not be concluded and in the charge sheet, there are as many as 17 prosecution witnesses and till date, only three prosecution witnesses could be examined by the trial court and last prosecution witness was examined on 21.12.2021. The second ground has been taken by the applicant in the instant third bail application is that applicant is suffering with tuberculosis with hepatitis-C and his medical condition is quite serious and therefore, he may be enlarged on bail.

12. From annexure CA-1 to the counter affidavit filed by the State today, it reflects that even as per the report of the Jail Superintendent concerned, applicant is suffering with tuberculosis with hepatitis-C and he is admitted in T.B. ward.

13. Further, from the record, it reflects that applicant is in jail for

almost five and half years and last prosecution witness (P.W.-3) was examined on 21.12.2021 and since then two years have been passed but even till today, P.W. 4 could not be examined, therefore, it appears that trial of the case is moving with languid pace. The Apex Court in the case of ***Union of India Vs. K.A. Najeed (2021) 3 SCC 713***, observed that right of speedy trial is the fundamental right of an accused and on its violation, accused can be released on bail.

14. Therefore, considering the medical condition of the applicant and his long incarceration of almost five and half years, in my view applicant is entitled to be released on bail.

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

Let the applicant- **Raju @ Rajveer** 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.

16. 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.

17. 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 :- 30.11.2023

KK Patel