

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35711 of 2022

Applicant :- Yogendra Kumar Paswan

Opposite Party :- State of U.P.

Counsel for Applicant :- Karunesh Pratap Singh

Counsel for Opposite Party :- G.A., Rudra Kant Mishra

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. This is the second bail application. The first bail application was rejected by this Court on 02.11.2021.
3. Heard counsel for the applicant, counsel for the informant and Sri Neeraj Kumar Sharma, learned AGA for the State.
4. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 553 of 2019, under Sections 409 and 420 of I.P.C., Police Station- Sahjanwa, District- Gorakhpur during pendency of the trial.
5. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the status report dated 28.11.2023 sent by the trial court, charges were framed against the applicant on 28.09.2022. There are 171 prosecution witnesses. Presently, the cross examination of P.W. 1 is being conducted. It is next contended that identically placed co-accused, Jaiprakash Singh and Sanjay Chaurasiya, have been granted bail by this Court in Criminal Misc. Bail Application Nos. 55044 of 2021 and 9046 of 2022 vide orders dated 31.05.2022 and 18.04.2022 respectively. The applicant is in jail since 10.10.2020 and the trial is moving at a snail's pace, and is not likely to conclude early. The applicant is not responsible for the delay in the trial. It is further contended that the inordinate delay in concluding the trial has led to virtually an indefinite imprisonment of the applicant without there being any credible evidence to implicate him in the offence and violates the rights of the applicant to a speedy trial. The applicant has no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
6. Learned A.G.A. and counsel for the informant have opposed the

prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.

7. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the applicant has remained confined for more than three years. Identically placed co-accused, Jaiprakash Singh and Sanjay Chaurasiya, have been granted bail by this Court. Further, there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant, **Yogendra Kumar Paswan** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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

Order Date :- 7.12.2023
Sachin Mishra