

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28368 of 2023

Applicant :- Monu Dubey

Opposite Party :- State of U.P.

Counsel for Applicant :- Dinesh Mishra, Ram Krishna Mishra

Counsel for Opposite Party :- G.A., Anita Singh

Hon'ble Ajay Bhanot, J.

Heard Shri Ram Krishna Mishra, learned counsel for the applicant, Ms. Anita Singh, learned counsel holding brief of Shri Dinesh Kumar Mishra, learned counsel for the informant and Shri Paritosh Kumar Malviya, learned AGA-I for the State.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 51 of 2019 at Police Station Shahganj District Jaunpur, under Sections 147, 148, 149, 504, 506, 307, 302, 34 IPC and Section 7 of Criminal Law Amendment Act. The applicant is in jail since 25.03.2019.

The bail application of the applicant was rejected by learned trial court on 11.05.2023.

The applicant has been identified as the principal offender who discharged his firearm which leading to the death of two persons. The postmortem report corroborates the prosecution case. The offence is grave. The trial is on foot. There is likelihood that the applicant committed the offence.

At this stage, no case for bail is made out.

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

Status report sent by the learned trial court records that the prosecution proposes to examine 30 witnesses to bring home the charges. Till date only nine prosecution witnesses have been examined.

Shri Ram Krishna Mishra, learned counsel for the applicant submits that the delay in trial is the matter of grave concern, particularly, when the directions were issued by the Supreme Court to conclude the trial at an early date. The trial is being inordinately delayed.

Learned counsel for the applicant fairly submits that the bail granted by this Court to other six accused persons who were assigned the role of exhortation was cancelled by the Supreme Court by order dated 14.10.2020. It is contended that the said six accused persons were falsely implicated. Admittedly the case of the applicant is on a worse footing in comparison to the said six accused persons.

Learned counsel for the applicant further submits that the said six accused persons are poor persons. They do not have effective pairokars and are unable to afford counsel for filing second bail application before the Supreme Court.

In wake of the aforesaid, High Court Legal Services Committee shall send necessary requisition to the Supreme Court Legal Services Committee (SCLSC) for providing free legal aid to the said six accused persons for the purposes of filing second bail application in view of the delay in trial, if the said accused persons are found to be eligible as claimed by the learned counsel for the applicant.

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 provided 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 Superintendent of Police, Jaunpur, 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 Superintendent of Police, Jaunpur, shall state the reasons for the same in the said affidavit and also show the steps taken to execute the warrants. The Superintendent of Police, Jaunpur, shall simultaneously inform the Additional Director General of Police (ADG) Varanasi

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) Varanasi Zone, 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.

Learned District Judge shall examine the status of the trial on a weekly basis.

The District Judge shall submit a compliance report regarding the status of the trial and the steps taken to comply with the orders of this Court after every month before the Hon'ble Administrative Judge.

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

Order Date :- 17.10.2023/Dhananjai