

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35989 of 2022

Applicant :- Sanju Sikarwar @ Sanjay @ Mukesh

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Kameshwar Rao, Arunesh Singh, Vinay Kumar Pandey

Counsel for Opposite Party :- G.A., Punya Sheel Pandey

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant, Sri Jitendra Kumar, Advocate, holding brief of Sri Punya Sheel Pandey, counsel for the informant and Sri V.P. Tripathi, learned AGA for the State.

2. 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. 517 of 2022, under Sections 323, 354A and 506 of I.P.C. and Section 9/10 of POCSO Act, Police Station- Highway, District- Mathura during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case owing to certain other dispute between the parties. Placing reliance on the second statement of the informant, it is contended that the informant was married to one Om Prakash. From the wedlock, she had four children. Thereafter, the informant left her family and started living at a house nearby the house of the applicant. The victim is not the daughter of the applicant nor the informant is the wife of the applicant. The applicant did not act inappropriately with the victim. At present, there is no cogent evidence to link the applicant with the offence. It is next contended that the applicant is in jail since 13.06.2022. The trial is moving at a snail's pace, and is not likely to conclude early. Till date, charges have not been framed. The applicant is not responsible for the delay in the trial. Inordinate delay in concluding the trial has led to virtually and 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.

4. 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.

5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that at this stage, there is no substantive evidence against the applicant. The applicant has no criminal antecedents and has remained confined for more than one year and five months. 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Sanju Sikarwar @ Sanjay @ Mukesh** 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.

7. 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 :- 21.11.2023
Sachin Mishra