

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39637 of 2022

Applicant :- Ramesh Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Prabhat Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Prabhat Kumar Pandey, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 420 of 2014, under Sections 302, 34, 201, 120B IPC, Police Station Belipar, District Gorakhpur during pendency of the trial.

3. Learned counsel for the applicant submitted that this is third bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed on merit on 25.09.2019 and his second bail application was dismissed on 26.10.2021 for non prosecution. He further submits that first bail application of the applicant was dismissed by Hon'ble Mrs. Manju Rani Chauhan,J and when Her Lordship released the instant matter then it is listed today before this Court as this Court is dealing with such matters.

4. He further submits that he is pressing the instant third bail application on the sole ground that applicant is in jail since 09.11.2017 i.e. for almost six years and till date trial of the case could not be concluded and only three prosecution witnesses could be examined and without any fault of the applicant trial of the case is pending. He further submits that applicant is not having any criminal history, therefore, considering the long incarceration of the applicant, he may be released on bail.

5. Per contra, learned AGA opposed the prayer for bail and submitted that instant matter is of the year 2014 and applicant was absconder and he appeared on 09.11.2017 i.e. after three years and due to his non co-operation, the trial of other co-accused persons

was separated and they have been convicted and after considering the entire facts of the case, first bail application of the applicant was dismissed on merit on 25.09.2019 and considering the previous conduct of the applicant, there is every possibility that after release on bail, he will again abscond, therefore, he should not be released on bail.

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

7. This is third bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed on merit while second bail application of the applicant was dismissed for none prosecution and it appears from the record that vide order dated 05.09.2023 passed by Hon'ble The Chief Justice, the instant third bail application is listed before this Bench as this Bench is dealing with such matters.

8. The sole ground which is taken in the instant third bail application is that applicant is in jail for almost six years and till date trial of the case could not be concluded and till date only three prosecution witnesses could be examined but from the record it reflects that earlier applicant absconded and he surrendered after three years and during his abscondence the trial of the other accused persons were separated by the trial court and in the trial they have been convicted and after considering all these facts the first bail application of the applicant was dismissed by this Court. As applicant remained absconded for three years and all the accused persons have been convicted, therefore, I find force in the argument advanced by learned AGA that probability cannot be ruled out that after release on bail applicant will again abscond, therefore, I am not inclined to release the applicant on bail.

9. Accordingly, the instant bail application is rejected.

10. However, considering the fact that applicant is in jail for almost six years, trial court is directed to conclude the trial of the case within a period of eight months from the date of production of certified copy of this order strictly as per provision of Section 309 Cr.P.C. on day to-day basis without granting any unnecessary adjournments to either of the parties, if there is no legal impediment.

11. 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 :- 17.10.2023

AK Pandey