

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32702 of 2023

Applicant :- Pyare Lal Lodhi And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Srivastava, Harsh Kumar Srivastava

Counsel for Opposite Party :- G.A., Sharad Kumar Srivastava

Hon'ble Siddharth, J.

Heard learned counsel for the applicants; Sri Sharad Kumar Srivastava, learned counsel for the informant; learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicants, **Pyare Lal Lodhi and Dharmendra Kumar Lodhi @ Bakka**, with a prayer to release them on bail in **Case Crime No. 186 of 2021, under Sections 302/34 IPC, Police Station Hathgaon, District- Fatehpur**, during pendency of trial.

This is second bail application of the applicant. The first bail application of the applicant was rejected by this Court on 23.2.2023.

Learned counsel for the applicants has submitted that while rejecting the first bail application of the applicant, this Court directed the trial court to conclude the trial, as expeditiously as possible, preferably within period of one year from the date of production of certified copy of this order. Copy of this order was placed before the trial court only in August, 2023. Prior to passing of the order of this Court, examination-in-chief of PW-1 was recorded and his cross-examination has been recorded thereafter. Before the trial court, only one prosecution witness out of 17 has been examined till date. The applicants have been falsely implicated in this case. They have no criminal history to their credits and are languishing in jail since 15.12.2021. In case, the applicants are released on bail, they will not misuse the liberty of bail.

Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail of the applicants by contending that the innocence of the applicants cannot be adjudged at pre trial stage, therefore, they do not deserve any indulgence. In case the applicants are released on bail they will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, finding force in the submissions made by the learned counsel for the applicant; keeping in view uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy; larger mandate of the Article 21 of the Constitution of India, considering the

dictum of Apex Court in the case of **Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P.(Crl.) No. 5191 of 2021, judgement dated 11.7.2022 and considering 5-6 times overcrowding in jails over and above their capacity by under trials** and without expressing any opinion on the merits of the case, let the applicants involved in the aforesaid crime be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that :-

(i) The applicants shall not tamper with the evidence or threaten the witnesses.

(ii) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicants shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of their absence, without sufficient cause, the Trial Court may proceed against their under Section 229-A of the Indian Penal Code.

(iv) In case the applicants misuse the liberty of bail during trial and in order to secure their presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against their in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicants shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicants are deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against their in accordance with law.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity and residence proof of the applicants and sureties be verified by the court concerned before the bonds are accepted.

The court below is directed to conclude the trial against the applicant, as expeditiously as possible, preferably within a period of one year.

The Registrar (Compliance) of this Court is directed to communicate this order to the court concerned within 10 days.

Order Date :- 7.11.2023
Ruchi Agrahari