

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48049 of 2021

Applicant :- Bunty @ Raudas

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhijit Mishra, Arun Kumar Yadav, Ashok Pandey, Chandra Bhan Singh, Dinesh Raghav

Counsel for Opposite Party :- G.A., Aravind Kumar Tripathi, Bharat Singh, Devendra Kumar Dwivedi

Hon'ble Sameer Jain, J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Heard Sri Muktesh Kumar Singh, learned counsel for the applicant and Sri R.N. Srivastava, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 301 of 2018, under Sections 302 IPC and Section 3/25 Arms Act, Police Station Baniyather, District Bheem Nagar during pendency of the trial.
4. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench this Court vide order dated 09.12.2020 passed in Criminal Misc. Bail Application No. 30676 of 2019 and he is pressing the instant second bail application on the ground that applicant is in jail since 14.11.2018 i.e. for more than five years and till date trial of the case could not be concluded.
5. He further submits that in the charge-sheet there are as many as 13 prosecution witnesses but till date only four prosecution witnesses could be examined. He further submits that during trial when the prosecution witnesses appeared before the trial court then they stated that due to sudden provocation applicant opened fire upon the deceased and due to that deceased died, therefore,

considering the facts and circumstances of the case argued above, applicant may be enlarged on bail.

6. Per contra, learned AGA opposed the prayer for bail and submitted that this is second bail application filed on behalf of the applicant and after considering the entire facts of the case, first bail application of the applicant was dismissed and applicant is the sole accused in the present matter and applicant is the person who caused firearm injury to the deceased. He further submits that in such matter merely on the basis of long incarceration, applicant should not be released on bail.

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

8. However, it appears that applicant in the present matter is in jail for last five years but it appears that he is sole accused and he is the person who caused firearm injury to the deceased and on merit his first bail application has already been dismissed.

9. Further, however, right of speedy trial is the most valuable fundamental right of an accused and on its violation, the bail of an accused can be considered but there must be some balance between period of incarceration, seriousness of the allegation and punishment provided for that offence.

10. In case at hand applicant is sole accused who caused firearm injury to the deceased and due to that deceased died and he is facing trial under Section 302 IPC in which minimum punishment is life imprisonment, therefore, merely on the basis of long incarceration of more than five years, I am not inclined to release the applicant on bail.

11. Further, second ground submitted by the applicant is that during trial when witnesses of fact appeared before the trial court then they stated that it is a case of sudden provocation. In view of this Court at this stage it is not open for this Court to analyze the statements of the witnesses recorded by the trial court.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

13. Accordingly, the instant bail application is rejected.

14. 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.

15. However, considering the fact that applicant is in jail for more than five years, trial court is directed to conclude the trial of the case within a period of nine 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.

Order Date :- 22.11.2023

AK Pandey