

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35525 of 2023

Applicant :- Mahendra Kumar Mishra

Opposite Party :- State of U.P.

Counsel for Applicant :- Avanish Tripathi, Nitin Sharma

Counsel for Opposite Party :- G.A., Indra Deo Mishra, Mahesh Dwivedi

Hon'ble Sameer Jain, J.

1. Heard Sri Nitin Sharma, learned counsel for the applicant, Sri I.D. Mishra, learned counsel for the informant and Sri Ravi Kant Kushwaha, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.596 of 2022, under Sections 147, 148, 149, 286, 307, 323, 504, 506, 120B IPC, Police Station Meja, District Prayagraj during pendency of the trial.

3. 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 this Court on merit vide order dated 08.02.2023 passed in Criminal Misc. Bail Application No. 1670 of 2023 and he is pressing the instant second bail application on the ground that applicant in the present matter is in jail since 15.10.2022 i.e. for more than a year and till date not even charges could not be framed and very recently case was committed to the court of session.

4. He further submits that there is no hope of early disposal of the trial, therefore, considering the long incarceration of the applicant of more than a year, he may be released on bail.

5. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submits that this is second bail application filed on behalf of the applicant and after considering the entire facts of the case, the first bail application of the applicant has been dismissed and applicant is the person, who

caused firearm injury to the injured and due to non cooperation of co-accused Shivam, the trial of the case could not be committed to the court of session, therefore, merely on this ground, applicant 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 second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court on merit and it appears that applicant is in jail since 15.10.2022 i.e. for more than a year but as per allegation he is the person who caused firearm injury to the injured and from the medical report of the injured, it appears that injured sustained firearm injury and after conducting the operation, bullet was removed from the body.

8. Further, from the certified copy of the order-sheet, which was produced by learned counsel for the applicant during the course of argument, it appears that till 13.09.2023 case could not be committed even to the court of session. However, learned counsel appearing on behalf of the informant apprised that trial of the case has been committed to the court of session after 13.09.2023 although he submits that due to non cooperation of co-accused Shivam, the case could not be committed earlier to the court of session, therefore, it appears that recently the case was committed to the court of session, therefore, charges could not be framed till date.

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

10. Accordingly, the instant bail application is rejected at this stage.

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.

12. However, considering the fact that applicant is in jail for more than a year, trial court is directed to conclude the trial of the case within a period of seven 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 :- 9.11.2023

AK Pandey