

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38714 of 2023

Applicant :- Mohammad Shaqeel Urf Bade Miyan

Opposite Party :- State of U.P.

Counsel for Applicant :- Azhar Hussain

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 581 of 2021, under Sections 3/5/8 U.P. Prevention of Cow Slaughter Act, Police Station Mauaima, District Prayagraj during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of cow meat, a knife, a country made pistol, two live cartridges, a motorcycle and other articles has been shown from the applicant. There is no independent witness to the alleged recovery. It is further contended that the applicant is a law abiding citizen, he cooperated with the police investigation and has joined the trial. The trial is moving at a snail's pace and is not likely to conclude early. 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 criminal history of the applicant has been explained in Paragraph-4 of the supplementary affidavit. The applicant is in jail since 12.10.2021 and if he is released on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that there is no independent witness to the alleged recovery. Moreover, the applicant has remained confined for more than two years and there is no hope of early conclusion of trial and 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant-Mohammad Shaqeel @ Bade Miyan, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses; and,

(iv) shall appear on the first Sunday of every month at the police station concerned.

8. 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 :- 7.11.2023

SKT/-