

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39436 of 2023

Applicant :- Rahul

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Rajesh Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Shri Rajesh Maurya, learned counsel for the applicant and Shatrughan Yadav, learned AGA for the State-respondent.
2. The instant second bail application has been filed seeking release of the applicant on bail in Case No.59 of 2015 (State Vs. Rahul and Others), arising out of Case Crime No.10 of 2015, under Sections 363, 366, 504, 506 I.P.C. & Section 7/8 POCSO Act, Police Station Hastinapur, District Meerut, during pendency of the trial in the court below.
3. Learned counsel for the applicant submits that this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court vide order dated 27.03.2023 passed in Criminal Misc. Bail Application No.11774 of 2023 and he is pressing the instant second bail application mainly on the ground that applicant had earlier released on bail in the year 2015 and thereafter, he could not attend the court for seven years and therefore, his bail application was rejected but now he has remained in jail since 03.01.2023 i.e. for almost a year and therefore, considering the long period of incarceration, he may be enlarged on bail.
4. He further submits that applicant is ready to give an undertaking that in future he will attend the trial court regularly and fully co-operate with the trial of the case.

5. He further submits that the applicant is not having any criminal history to his credit except the present one.

6. Per contra, learned AGA opposed the prayer for bail and submits that applicant absconded for almost seven years, therefore, after considering the entire facts of the case, first bail application of the applicant was dismissed by this Court on 27.03.2023 but he could not dispute the fact that earlier applicant had released on bail in the present case on 16.06.2015 and he remained in jail since 03.01.2023 i.e. for almost a year.

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

8. However, this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court vide order dated 27.03.2023 but it appears that applicant although earlier had released on bail on 16.06.2015 and thereafter he failed to appear before the trial court for almost seven years, therefore, his first bail application was rejected but it reflects that applicant in the present matter is in jail since 03.01.2023 i.e. for almost a year and he is not having any criminal history.

9. Further, applicant has given an undertaking that in future he will attend the trial court regularly and fully co-operate with the trial of the case. Therefore, considering the long period of incarceration of almost a year, in my view, applicant is entitled to be enlarged on bail.

10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

11. Let the applicant- **Rahul**, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

12. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

13. 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 :- 29.11.2023
Zafar