

Court No. - 45

Case :- CRIMINAL MISC. WRIT PETITION No. - 14076 of 2023

Petitioner :- Amar Chand Singh

Respondent :- Central Bureau of Investigation

Counsel for Petitioner :- Dinesh Kumar Misra

Counsel for Respondent :- Sanjay Kumar Yadav

Hon'ble Vivek Kumar Birla,J.

Hon'ble Vinod Diwakar,J.

1. Heard Shri R.K. Sharma, learned Counsel assisted by Shri Dinesh Kumar Misra, learned counsel for the petitioner and Shri Gyan Prakash, learned counsel assisted by Shri Sanjay Kumar Yadav, learned counsel for the respondent-CBI, and perused the record.

2. Present petition has been filed with the following prayers:

*"A- Issue a writ order or direction in the nature of mandamus directing the trial Court **not to proceed to decide the trial of Special Case No. 05/2021 (C.B.I. Versus Yadav Singh and Others)** which is pending in the court of Special Judge, C.B.I., Ghaziabad, against the petitioner in the time bound period in pursuance of order dated 2.5.2023 passed by the Hon'ble High Court of Allahabad in the Criminal Misc. Anticipatory Bail Application No. 12522/2023 (Rajendra Krishna Johri Versus Central Bureau Investigation) keeping in the view of the judgements of the Hon'ble Apex Court.*

*B- Issue a writ, order or direction in the nature of Mandamus thereby passing a direction that the order dated 2.5.2023 passed by the Hon'ble High Court of Allahabad in the Criminal Misc. Anticipatory Bail Application No. 12522/2023 (Rajendra Krishna Johri Versus Central Bureau of Investigation) is not binding upon the petitioner and the **trial of the Rajendra Krishna Johri be separated from the trial of the petitioner in the FIR** in question before the Ld. Trial Court at Ghaziabad.*

*C- Issue a writ, order or direction in the nature of Mandamus or any appropriate order **staying the trial qua the petitioner in FIR bearing No. RC/DST/2015/A/0004/CBI** registered under Section 120-B, r/w 420 IPC, section 13(2) r/w 13 (1)(d) of the PC Act, 1988 which is pending as Special Case No. 05/2021 (C.B.I. Versus Yadav Singh and others) in the court of Special Judge, C.B.I., Ghaziabad."*

3. In essence, the petitioner has prayed for not to proceed with the trial, the petitioners trial be separated in impugned FIR and stay

the trial proceedings qua petitioners. Needless to say, innocuous prayers has been made in the light of the order dated 02.05.2023 passed by this Hon'ble Court in Criminal Misc. Bail Application No. 12522 of 2023 titled as Rajendra Krrishna Johri vs. CBI in which this Hon'ble Court while enlarging the co-accused on bail has observed "*the trial court may make all possible efforts/endeavor and try to conclude the trial within a period of one year after the release of the applicant.* "

4. Learned counsel for the petitioner submits that the order dated 02.05.2023 is in the teeth of A.R. Antulay and another vs. R.S. Nayak and another, P. Ramachandra Rao vs. State of Karnataka, (2002) 4 SCC 578 and Special Leave Petition (Criminal) Diary No (s). 30839 of 2021 titled as M. Gopalakrishnan and ors. vs. Pasupmpon Muthuramalingam and Anr. He further contends that the counsel, who has been engaged by the petitioner is Delhi based and it's causing inconvenience to him to come to the Special CBI Court, Ghaziabad, and he further contended that such directions are unrealistic and impractical. The petitioner's fundamental right of fair trial is infringed and resulting in grave injustice to his case. He further urged that petitioner is a senior citizen and has retired after long service period of 30 years in the Uttar Pradesh Finance and Accounts Service, and facing trial since long.

5. *Per contra*, learned counsel for CBI submits that after intervention of Division Bench of this Court at Judicature in Misc. PIL No. 12396 of 2014, vide order dated 16.07.2015 directed the CBI to investigate the offences of large scale corruption by the officials of NOIDA Authority in connivance with contractors and builders. A FIR bearing No. RC/DST/2015/A/004 was re-registered by CBI against Yadav Singh and others and thus investigation was taken up by CBI and after completion of the investigation, charge-sheet was filed against the accused persons.

6. After hearing both the parties and perusal of the record, we do not find any illegality in the order passed by this Hon'ble High Court in the bail application of Rajendra Krishna Johri being Criminal Misc. Bail Application No. 12522 of 2023 expediting the trial because of the underlined reasons:

(i) The FIR was registered in the year 2015 and the all accused persons named in the charge sheet are facing trial since then.

(ii) It is the case of the petitioner that he is a senior citizen, it is in his interest that the matter be decided at earliest.

(iii) So far as the inconvenience of the defence counsel is concerned, as he has to come all the way from Delhi to Ghaziabad to attend the case, we find no legal force in such argument in the facts and circumstances of the case.

(iv) Admittedly, the High Court has only observed to make all possible efforts to conclude the trial within a period of one year after release of the applicant. It is in the interest of all the accused persons, since some of the accused persons are facing heat of the prosecution since 2015.

(v) The Hon'ble Supreme Court consistently held that the right to speedy trial is a fundamental component of a fair trial and is essential for ensuring that justice is delivered in a timely manner. The primary effect of the right to speedy trial is to prevent unnecessary delay in adjudication of criminal cases. The speedy trial is essential for protecting the rights and personal liberty of the accused. It acts as a deterrent against unwarranted or malicious prosecutions. The Supreme Court has been proactive in setting guidelines, and ensuring that this right is upheld to guarantee a fair and speedy trial for all individuals.

7. Thus, the petition is devoid of merit and hence dismissed.

Order Date :- 16.10.2023

Abhishek