

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40391 of 2023

Applicant :- Vikas Teotia

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Kumar Singh, Mayank Yadav

Counsel for Opposite Party :- G.A., Rajeev Kumar Rai

Hon'ble Krishan Pahal, J.

1. List has been revised. This is the second bail application. First bail application was rejected by this Court vide order dated 9.2.2023 passed in Criminal Misc. Bail Application No. 23552 of 2019.

2. Heard Sri Vivek Kumar Singh, learned counsel for the applicant, Sri Rajeev Kumar Rai, learned counsel for the informant, as well as Sri V.K.S. Parmar, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No. 221 of 2018 (S.T. No. 509 of 2018), U/S 304-B, 498-A IPC and 3/4 Dowry Prohibition Act, Police Station Kotwali Nagar, District Bulandshahar, during the pendency of trial.

4. Learned counsel for the applicant has stated as a new ground, the applicant is languishing in jail since, 4.3.2018, as such, period of incarceration is a valid ground for the applicant to be enlarged on bail. Learned counsel has next stated that in all, seven witnesses of fact have been examined and last witness was examined on 9.12.2022. In case, the applicant is released on bail, he will not misuse the liberty of bail.

5. Per contra, learned A.G.A. and learned counsel for the informant have vehemently disputed the said facts and have placed reliance on the order sheet of the Court concerned, whereby the application no. 69-B u/s 311 Cr.P.C. was moved by the applicant, which was kept pending for several months despite no objection certificate given by the informant, and could be allowed on 9.6.2023, as such, the re-examination of P.W. 2 could be done on 12.7.2023 only. The delay, if any, cannot be attributed to the informant or the prosecution. It is the applicant himself, who is responsible for the

same. Learned counsel for the informant has stated that the said order of this Court dated 9.6.2023 has not been placed before the trial court.

6. After hearing the parties and taking into consideration the rival submissions and the fact that the delay in trial, if any, cannot be attributed solely to the prosecution, rather learned counsel for the applicant has also contributed to it, as such, I do not find it a fit case for bail. Without expressing any opinion on the merits of the case, this Court is not inclined to release the applicant on bail.

7. The second bail application is, accordingly, **rejected**.

8. Office is directed to send the certified copy of this order before the trial Court within one month from today.

9. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously, in view of the principle laid down in the recent judgements of the Apex Court in the cases of **Vinod Kumar vs. State of Punjab 2015 (3) SCC 220** and **Hussain and Another vs. Union of India (2017) 5 SCC 702**, if there is no legal impediment.

10. 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.

(Justice Krishan Pahal)

Order Date :- 8.11.2023

Shalini