

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40824 of 2023

Applicant :- Panney Lal

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinay Kumar Singh, Arurit Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of the bail application the applicant has prayed to be enlarged on bail in Session Case No.1205 of 2022, Case Crime No.43 of 2022 at Police Station-Jhangaha, District-Gorakhpur under Section 302 IPC. The applicant is in jail since 10.02.2022.

The bail application of the applicant was rejected by the learned trial court on 07.01.2023.

The following arguments made by Shri Rajeev Singh, learned counsel holding brief of Shri Vinay Kumar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. Delay in lodgment of the F.I.R. in the facts and circumstances of the case is fatal to the prosecution case.
2. Vague and general role has been assigned to the applicant in the assault.
3. The applicant has not been identified as the principal

offender who inflicted the fatal injury to the person of the deceased.

4. Even as per the prosecution case the incident happened when an altercation between the parties suddenly turned violent.

5. Clearly there was no intent to kill the deceased.

6. After the investigation the prosecution case depicted in the F.I.R. was found to be false, inasmuch as, the co-accused-Mangesh Maurya was exonerated and a final report was filed in his favour. However, the learned trial court has taken cognizance of the offence against the said co-accused-Mangesh Maurya as well.

7. The deceased died due to medical negligence. The deceased was not rushed to the hospital by the family members though he had sustained serious injuries. This itself makes the entire prosecution case doubtful.

8. The applicant claims congruency in role and seeks parity in relief granted to the co-accused-Mangesh Maurya, who has been enlarged on bail by this Court by order dated in Criminal Misc. Bail Application No.16897 of 2022.

9. The applicant is a law abiding citizen who cooperated with the police investigations and had joined the trial.

10. The status report send by the learned trial court records

that the prosecution proposes to examine 24 witnesses to bring home the charges against the applicant.

11. Despite notice and bailable warrants, the prosecution witnesses have not appeared before the learned trial court on the appointed dates. The prosecution witnesses are deliberately delaying the trial only to prolonged the incarceration of the applicant.

12. The trial is moving at a snail's pace and shows no signs of an early conclusion.

13. The applicant is not responsible for the delay in the trial.

14. Inordinate delay in the trial will lead to indefinite imprisonment of the applicant without being any evidence against the applicant. Right of the applicant to a speedy trial has been violated.

15. The applicant has explained his criminal history. It is also contended that the applicant is a convenient scapegoat for the police authorities. The applicant has been falsely nominated in a number of false cases to burnish their professional credentials. The said cases do not have any bearing on the instant bail application.

16. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-Panney Lal be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 6.11.2023

Ashish Tripathi