

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42061 of 2023

Applicant :- Balveer Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rahul Dubey, Advocate holding brief of Sri Pradeep Kumar Mishra, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 576 of 2014, under Sections 302, 307, 323 IPC, Police Station Ghatampur, District Kanpur Nagar during pendency of the trial.

3. Learned counsel for the applicant submitted that this is third bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court on merit vide order dated 27.10.2016 and his second bail application was dismissed for non prosecution on 27.11.2019 and he is pressing the instant third bail application on the ground that applicant is in jail since 21.07.2014 i.e. for more than nine years and till date trial of the case could not be concluded. He further submits that in the charge-sheet there are as many as 12 prosecution witnesses but till date only six prosecution witnesses could be examined, therefore, there is no hope of early disposal of the trial.

4. He placed the reliance on the judgement of the Apex Court in the case of **Union of India Vs. K.A. Najeeb (2021) 3 SCC 713** and submitted that long incarceration of the applicant of more than nine years violates the fundamental right of the applicant provided to him under Article 21 of the Constitution of India, therefore, considering the long incarceration of the applicant of more than nine years, he may be released on bail.

5. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant is in jail for more than nine years and he is not having any criminal history.

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

7. Although, this is third bail application filed on behalf of the applicant but his second bail application was dismissed for non prosecution and his first bail application was dismissed on merit on 27.10.2016 and it appears that applicant in the present matter is in jail since 21.07.2014 i.e. for more than nine years and till date trial of the case could not be concluded.

8. It further reflects from the record that in the charge-sheet there are as many as 12 prosecution witnesses and out of them only six prosecution witnesses could be examined, therefore, I find force in the argument advanced by learned counsel for the applicant that trial of the case is moving with languid pace and there is no hope of its early disposal.

9. The Apex Court in the case of **Union of India Vs. K.A. Najeeb (supra)** categorically stated that while deciding the bail application, the long incarceration of the applicant should also be considered by the Court concerned.

10. Therefore, considering the fact that applicant is in jail for more than nine years, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Balveer Singh** 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.

13. 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.

14. 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 :- 17.10.2023

AK Pandey