

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50557 of 2022

Applicant :- Ajay

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

Counsel for Applicant :- Narayan Singh(Kushwaha),Ashish Goyal

Counsel for Opposite Party :- G.A.,Vinay Kumar

Hon'ble Sameer Jain,J.

1. Sri Vinay Kumar, Advocate, submitted that he is the counsel for the applicant but his name has wrongly been shown in the cause list as a counsel for the informant.
2. Sri Pradeep Kumar, learned AGA for the State apprised the Court that on 07.11.2022 notice has been served to the informant of the case. Despite service of notice, none appeared on behalf of the informant.
3. This is the second bail applicant filed on behalf of the applicant and his first bail application was dismissed by Hon'ble Justice Saurabh Shyam Shamshery vide order dated 01.11.2021. From the record, it reflects that he released the instant second bail application and therefore, the instant second bail application is listed today before this Bench as this Bench is dealing with the matter pertains to provisions of Section 376 IPC.
4. Heard Sri Vinay Kumar, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
5. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 51 of 2021, under Section 376 IPC & 3/4 POCSO Act, Police Station- Sakrauli, District-Etah, during pendency of the trial in the court below.
6. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court and at the time of first bail application, the fact that during medical examination of the victim, doctor did not find any injury, could not be placed before this Court and therefore, on this ground he is pressing the instant

second bail application. He further submitted that doctor had already examined by the trial court and from his testimony the entire story of the prosecution appears to be false and baseless. He further submitted that applicant is in jail for more than two years.

7. Per contra, learned AGA opposed the prayer for bail and submitted that after considering the entire facts of the case, the first bail application of the applicant was dismissed and applicant is a married man and victim is hardly 14-15 years' old girl and there is no merit in the instant second bail application, therefore, it should be dismissed.

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

9. This is the second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court and the ground taken by the applicant in the instant second bail application was also available at the time of first bail application, therefore, it cannot be said that this is a fresh ground.

10. Further, law is settled that at the time of hearing of bail application, meticulous and threadbare examination of prosecution is not possible and it is the duty of the trial court to analyze their statements at the time of final hearing of the case, therefore, I find no good reason on the basis of which the instant second bail application of the applicant can be considered.

11. Accordingly, the instant second bail application is ***rejected***.

12. 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.

13. However, considering the fact that applicant is in jail for more than two years and trial of the case could not be concluded till date, trial court is directed to conclude the trial of the case within a period of seven months from the date of production of certified copy of this order, strictly as per the provisions of Sections 309 Cr.P.C. and 35 POCSO Act without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

Order Date :- 16.10.2023 / KK Patel