

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42216 of 2023

Applicant :- Mangal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rajendra Kumar Pandey, learned counsel for the applicant and Sri Saurabh Bahadur Singh, learning AGA for the state.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 353 of 2015, under Sections 147, 148, 149, 307, 302, 34 IPC, Police Station Rabupura, District Gautam Budh Nagar during pendency of the trial.
3. Learned counsel for the applicant submits that this is second bail application filed on behalf of the applicant and the first bill application was dismissed by this court on merits on 16/12/2019 and he is pressing the instant second bail application on the ground that applicant is in jail since 18/1/2017 that is for more than six and a half years and till date trial of the case could not be concluded. However, while rejecting the first bail application, this Court directed the trial court to expedite the trial and conclude the same preferably within a period of one year.
4. He further submits that till date only two prosecution witnesses have been examined and both of them have been declared hostile including the informant. He next submits that there is no hope of early disposal of the trial and applicant is not having any previous criminal history, therefore, considering the long incarceration of the applicant and the fact that two prosecution witnesses have been declared hostile, the applicant may be enlarged on bail.
5. *Per contra*, learned AGA opposed the prayer for bail and submits that as per the allegations, applicant has committed murder of his son which is a serious crime and in the incident his wife also sustained injuries but he could not dispute the fact that applicant is languishing in jail for more than six and a half years

and informant and wife of the applicant i.e. the injured have been declared hostile. He further could not dispute the fact that in the chargesheet there are as many as 16 prosecution witnesses.

6. I have heard both the parties and perused the record.

7. Although, this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this court and while rejecting the first bail application, this Court directed the trial court to expedite the proceedings of the case and conclude the trial preferably within a period of one year but since then almost four years have been passed but till date out of total 17 prosecution witnesses only two prosecution witnesses could be examined. Further, two witnesses of fact including the informant who were examined by the trial court, have turned hostile.

8. Further, the applicant in the present case is languishing in jail for more than six and a half years. Therefore, it appears that trial of the case is proceeding very slowly and there is no hope of its early disposal in near future.

9. Considering the facts and circumstances of the case as discussed above, particularly, the fact that applicant is in jail for more than six and a half years, in my view, the applicant is entitled to be released on bail.

10. Let the applicant Mangal 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.

11. In case of breach of any of the above conditions, the prosecution will be at liberty to move an application before this Court for cancellation of bail of the applicant.

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.

Order Date :- 16.10.2023

Madhurima