

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42389 of 2023

Applicant :- Rajesh

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

Counsel for Applicant :- Deepak Kumar Kulshrestha

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

This is the second bail application.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 110 of 2021 at Police Station- Khandauli, District-Agra under Sections 376-DA, 506 IPC and Section 5g/6 POCSO Act. The applicant is in jail since 21.04.2021.

The first bail application of the applicant was rejected by this Court on 31.08.2022.

The following arguments made by Shri Deepak Kumar Kulshrestha, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Suchit Tandon, learned AGA from the record, entitle the applicant for grant of bail:

1. The victim has repudiated the prosecution case and has denied commission of rape by the applicant with her in her testimony before the trial court.
2. The applicant is a law abiding citizen who cooperated with the police investigations and had

joined the trial

3. The trial is moving at a snail's pace and shows no signs of an early conclusion. The applicant is not responsible for the delay in the trial proceedings.

4. As per the chargesheet, the prosecution proposes to examine 14 witnesses. However, only five witnesses have been examined till date.

5. Inordinate delay in concluding trial has lead to an indefinite detention of the applicant without there being any credible evidence to implicate him in the offence. Right of the applicant to a speedy trial has been violated.

6. The applicant does not have any criminal history apart from the instant case.

7. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial 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-**Rajesh** 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 :- 18.10.2023

Vandit