

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51580 of 2022

Applicant :- Manauwar

Opposite Party :- State of U.P.

Counsel for Applicant :- Manu Sharma, Dinesh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Shri Manu Sharma, learned counsel for the applicant, Shri R. N. Srivastava, learned AGA for the State-respondent.
2. The instant second bail application has been filed seeking release of the applicant on bail in S.T. No.40 of 2018, arising out of Case Crime No.177 of 2017, under Section 302 IPC, Police Station Paniyara, District Maharajganj, during pendency of the trial in the court below.
3. Learned counsel for the applicant submits that this is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by Co-ordinate Bench of this Court vide order dated 26.08.2021 passed in Criminal Misc. Bail Application No.18683 of 2021 and he is pressing the instant second bail application on the sole ground that applicant is in jail since 24.11.2017 i.e. for last more than six years and till date trial of the case could not be concluded therefore, considering the long period of incarceration of the applicant i.e. for last more than six years, he may be enlarged on bail.
4. Per contra, learned AGA opposed the prayer for bail and submits that applicant is the sole accused and he by inflicting knife injuries committed the murder of his own *Bhabi* and there are several eye-witnesses including his parents and this is the second bail

application filed on behalf of the applicant and first bail application of the applicant has been dismissed by Co-ordinate Bench of this Court after considering the entire facts of the case and in such type of matters merely on the basis of long period of incarceration, it is not appropriate to release the applicant on bail and therefore, the instant second bail application should be dismissed.

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

6. This is the second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by Co-ordinate Bench of this Court on 26.08.2021 on merits. The instant second bail application has been filed by the applicant on the sole ground that he is in jail since 24.11.2017 i.e. for last more than six years but till date trial of the case could not be concluded.

7. Right of the speedy trial is the most cherished fundamental right provided under Article 21 of the Constitution of India and its violation entitles the accused to release on bail but there must be some balance between the period of incarceration suffered by the accused and seriousness of the allegation made against him. In case at hand, the allegation against the applicant is that he by inflicting knife injuries committed the murder of his own *Bhabi* and therefore, allegations against him are serious in nature and not only there are several eye-witnesses but his parents are also eye-witness of the incident.

8. Further, it is a case of Section 302 I.P.C., in which maximum punishment is life imprisonment and maximum punishment can be capital punishment therefore, in view of the facts and circumstances of the case, I am not inclined to release the applicant

on bail at this stage, accordingly the instant second bail application filed by the applicant - **Manauwar** is **rejected**.

9. However, considering the fact that applicant is in jail since 24.11.2017 i.e. for last more than six years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of a certified copy of this order strictly as per the provisions of Section 309 Cr.P.C. on day to day basis, without granting any unnecessary adjournments to either of the parties, if there is no legal impediments.

Order Date :- 8.12.2023

Zafar