Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42515 of 2023
Applicant :- Vicky
Opposite Party :- State of U.P.
Counsel for Applicant :- Sudhir Dixit,Smt. Richa Dixita,Utkarsh Dixit
Counsel for Opposite Party :- G.A.,Akash Tomar

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 261 of 2018 at Police Station- Ganganagar, District- Meerut under Sections 302, 120B, 34 IPC. The applicant is in jail since 22.09.2018.

The bail application of the applicant was rejected by learned trial court on 18.08.2023.

The following arguments made by Sri Utkarsh Dixit, learned counsel assisted by Sri Ashish Maurya, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Rishi Chaddha, learned AGA from the record, entitle the applicant for grant of bail:

1. The delay of 18 hours in lodgment of the FIR in the facts and circumstances of this case is fatal to the prosecution case.

2. The applicant was not named in the FIR.

3. The applicant was named belatedly by the first informant after four days of lodgment of the FIR. The said delay discredit the statement of the first informant.

4. One fire arm was planted on the applicant only to burnish the credential of the police authorities.

5. There is no independent witness to the said recovery.

6. The fire arm cannot be connected to the role assigned to the applicant by the prosecution witness.

7. The statement of the first informant and the eye witness are unreliable inasmuch as she was unconscious for a period of four days but no medical evidence to support the same has been produced. Various contradictions were highlighted in the statements of the witnesses before the trial court (However the court does not propose to go into the appraisal of evidence as it may prejudice the trial).

8. The applicant is a law abiding citizen who cooperated in the investigation and has joined the trial proceedings. The applicant never tampered with the evidence nor did he influence any witness.

9. The trial is moving at a snail's pace and and shows no sign of early conclusion. The applicant cannot be faulted for the delay in the trial.

10. Status report sent by the trial court records that the prosecution witnesses are not cooperating in the trial. Prosecution witness is deliberately delaying the examination of the witness only to prolong the incarceration of the applicant.

11. Inordinate delay in concluding trial has lead to

virtually an indefinite imprisonment of the applicant, without any evidence. The right of the applicant to speedy trial has been violated.

12. The applicant does not have any criminal history apart from this case.

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- Vicky 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 :- 13.12.2023
Pravin

Digitally signed by :-
PRAVIN VERMA
High Court of Judicature at Allahabad