

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42987 of 2023

Applicant :- Muzammil

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohan Lal Pandey, Ashfaq Ahmed
Ansari, Dharmendra Kumar Yadav, Ramesh Kumar Yadav

Counsel for Opposite Party :- G.A., Shitala Sahay Srivastav

Hon'ble Ajay Bhanot, J.

Supplementary affidavit filed today is taken in the record.

This is the second bail application.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 171 of 2023 at Police Station- Charthawal, District- Muzaffar Nagar under Sections 498-A, 323, 326-A IPC and Section 3/4 Dowry Prohibition Act and Section 3/4 of Muslim Women Protection of Right of Marriage Act 2019. The applicant is in jail since 31.05.2023.

The first bail application was dismissed by this Court on 03.07.2023.

The following arguments made by Shri Ashfaq Ahmed Ansari, learned counsel assisted by Sri Rajkumar Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Ms. Sujata Chaudhary, learned AGA from the record, entitle the applicant for grant of bail:

1. The victim has repudiated the prosecution case in her

testimony before the trial court. She has been declared hostile at the instance of the prosecution.

2. Status report sent by the learned trial court records that as per the chargesheet fifteen witnesses are proposed to be examined. However, only one witness has been examined till date. The other witnesses are not cooperating in the trial proceedings. Prosecution witnesses are deliberately delaying the trial only to prolong the incarceration of the applicant.

3. The applicant is a law abiding citizen who cooperated with the police investigations and has joined the trial.

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

5. Inordinate delay in concluding trial has lead to virtually an indefinite imprisonment of the applicant, without any evidence.

6. The right of the applicant to speedy trial has been violated.

7. The applicant has explained his criminal history. However, learned AGA points out that the applicant has not disclosed criminal history of one case.

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

9. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court 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- Muzammil 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 :- 28.11.2023

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