

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52278 of 2022

Applicant :- Deepu @ Devchand

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

Counsel for Applicant :- Dheeraj Kumar Tiwari, Abhishek Mayank, Abhishek Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Suresh Bahadur Singh, learned AGA for the State apprised the Court that notice has been served upon the informant on 17.11.2022. Despite service of notice, none present on behalf of the informant. However, learned AGA for the State is present.

2. Heard Sri Abhishek Mayank, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 944 of 2021, under Sections 376(3), 506 IPC and Section 3/4 POCSO Act, Police Station Khurja Nagar, District Bulandshahr during pendency of the trial.

4. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by the co-ordinate Bench of this Court on merit vide order dated 31.08.2022 passed in Criminal Misc. Bail Application No. 3478 of 2022 and he is pressing the instant second bail application mainly on the ground that applicant in the present matter is in jail since 18.08.2021 i.e. for more than two years and till date trial of the case could not be concluded.

5. He further submits that till date only two prosecution witnesses could be examined, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.

6. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is close relative of the victim and was uncle of the victim and after considering the entire facts of the

case, his first bail application was dismissed and victim is hardly 15 years old girl, therefore, in such matter merely on the basis of incarceration of more than two years, it is not proper to release the applicant on bail. However, he suggested that trial court may be directed to conclude the trial of the case within a stipulated period of time.

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

8. This is second bail application filed on behalf of the applicant. The first bail application of the applicant has already been dismissed by the co-ordinate Bench of this Court on merit vide order dated 31.08.2022 and no new ground could be brought on record by the applicant except the fact that applicant is in jail for more than two years. Further, it is a case, in which, a close relative i.e. applicant, who is an adult man, committed rape with the victim, who was child.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail at this stage.

11. Accordingly, the instant bail application is rejected at this stage.

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.

13. However, considering the fact that applicant is in jail for more than two years, trial court is directed to conclude the trial of the case within a period of nine months from the date of production of certified copy of this order strictly as per provision of Section 35 POCSO Act and Section 309 Cr.P.C., if there is no legal impediment.

Order Date :- 29.11.2023

AK Pandey