

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43218 of 2023

Applicant :- Sudhanshu

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Faisal Khan

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. 754 of 2020 at Police Station- Kandhala, District-Shamli under Sections 323, 302, 34 IPC and 7 C.L.A. Act. The applicant is in jail since 22.12.2020.

The first bail application of the applicant was rejected by this Court on 07.07.2022.

The following arguments made by Mohammad Faisal Khan, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned AGA-I from the record, entitle the applicant for grant of bail:

1. The applicant is a law abiding citizen who cooperated with the police investigations and had joined the trial.
2. 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.

3. As per the status report sent by the trial court, the prosecution proposes to examine 23 witnesses. However, only ten witnesses have been examined till date. All material witnesses including the eye witness, doctor and the expert witness have been examined. The prosecution witnesses are deliberately delaying the trial only to prolong the incarceration of the applicant.

4. It is also submitted that the three eye witnesses have repudiated the prosecution case in their testimony before the trial court. They have been declared hostile at the instance of the prosecution.

5. The applicant claims congruency in role and seeks parity in relief granted to the co-accused Sompal who has been enlarged on bail by this Court by order dated 22.08.2023 passed in Criminal Misc. Bail Application No. 36825 of 2023.

6. 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.

7. The applicant has explained his criminal history. It is also contended that the applicant is a convenient scapegoat for the police authorities. The applicant

has been falsely nominated in a number of cases only to show the proficiency of the police investigators. The said cases do not have any bearing on the instant bail application.

8. 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-**Sudhanshu** 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 :- 29.11.2023

Vandit