

Court No. - 37

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44478 of 2023

Applicant :- Rashid

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

Counsel for Applicant :- Arvind Kumar

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. 282 of 2021 at Police Station- Thathiya, District- Kannauj under Section 376(2)(N) IPC and Section 5L/6 of POCSO Act. The applicant is in jail since 29.10.2021.

The first bail application of the applicant was rejected by this court on 11.07.2022.

The following arguments made by Sri Arvind Kumar Srivastava, 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 in the investigation and has joined the trial proceedings. The applicant never tampered with the evidence nor did he influence any witness.
2. The trial has not been concluded till date despite orders of this Court.

3. The status report sent by the trial court records that the prosecution witnesses are not cooperating with the trial and the police is not compelling for appearance of the said witness despite issuance of coercive measures by the court.

4. The victim has not appeared before the Court till date despite issuance of notice and other coercive procedures against her. The evidence of the said witness is closed in view of her continued absence. Similarly other prosecution witnesses are also not cooperating in the trial. Prosecution witness is deliberately delaying the examination of the witness only to prolong the incarceration of the applicant.

5. 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.

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

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

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

9. The applicant is not a flight risk. 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.

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- Rashid 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

Pravin