

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45414 of 2023

Applicant :- Manawar @ Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Ch. Dil Nisar, Ankit Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 331 of 2023 at Police Station Kandhla District Shamli under Sections 376, 328, 406, 323, 506 I.P.C. and Section 3/5 U.P. Prohibition of Unlawful Religious Conversion Act and Section 67 I.T. Act. The applicant is in jail since 07.08.2023.

The bail application of the applicant was rejected by learned trial court on 27.09.2023.

The applicant has been identified as the principal offender who committed rape with the victim. The evidence of capturing and transmission of indecent photographs of the victim has been collected during the investigation. The offence is grave. There is likelihood that the applicant had committed the offence. At this stage, no case for bail is made out.

Without going into the merits of the case, the bail application is dismissed.

This is an I.T. related offence. It has been contended

that the indecent photographs were deleted from the applicant's device phone after they were transmitted to the device of the brother of the victim. It is for the police authorities to ensure that proper investigation is conducted in I.T. related offences and the data which has been deleted is retrieved with use of technological tools. The evidence has to be tendered strictly in accordance with the relevant provisions of law. However, this Court has been constrained to observe that despite repeated orders the law is being flouted by police authorities and the poor level of proficiency is being depicted in such investigations. In this view of the matter the Additional Director General of Police (ADG), Meerut Zone has been directed to personally monitor the training of the investigators in regard to I.T. related offences and ensure that they are aware and adept in usage of technological tools. Further, the Additional Director General of Police (ADG) Meerut Zone shall ensure that the concerned officials shall closely and proficiently monitor the investigations.

Considering the gravity of the offence, interest of justice will be served by directing the learned trial court to expedite the trial within a stipulated period of time.

The trial court is directed to conclude the trial within

a period of one year from the date of receipt of a certified copy of this order. The learned trial court shall proceed with the hearing on a day to day basis to ensure that the above stipulated timeline of one year is strictly adhered to. All witnesses and counsels are directed to cooperate with the trial proceedings.

The trial court has also to be conscious of the rights of the accused persons and is under obligation of law to ensure that all expeditious, necessary and coercive measures as per law are adopted to ensure the presence of witnesses. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The learned trial court shall issue summons by regular process as per Section 62 Cr.P.C. and also by registered post as contemplated under Section 69 Cr.P.C. to expedite the trial.

The learned trial court shall promptly take out all strict coercive measures against all the witnesses in accordance with law who fail to appear in the trial proceeding. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases

exemplary costs should also be imposed on such parties/ counsel.

The police authorities shall ensure that warrants or any coercive measures as per law taken out by the learned trial court to ensure that the attendance of the witnesses are promptly executed.

The Superintendent of Police, Shamli shall file an affidavit before the trial court on the date fixed regarding status of execution of the warrants/service of summons taken out by the learned trial court.

In case there is a failure on part of the police authorities to execute the warrants or other coercive measures, the Superintendent of Police, Shamli shall state the reasons for the same in the said affidavit and also show the steps taken to execute the warrants. The Superintendent of Police, Shamli shall simultaneously inform the Additional Director General of Police (ADG) Meerut Zone, about the aforesaid failure of the police authorities in the first instance to execute the warrants and coercive measures issued by the learned trial court. If required, the Additional Director General of Police (ADG) Meerut, may issue an appropriate directions to ensure that the warrants issued are promptly executed by the learned trial court.

The delay in execution of warrants and consequent absence of witnesses is one of the principal causes of delays in criminal trials and has to be addressed effectively by all stakeholders.

The trial judge shall submit a fortnightly report on the progress of trial and the steps taken to comply with this order to the learned District Judge.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Shamli by the Registrar (Compliance) by FAX.

Order Date :- 6.11.2023
Vandit