

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45519 of 2023

Applicant :- Jauhari Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Lavkush Kumar Bhatt

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Anupam Anand, learned brief holder for the State-opposite party.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 161 of 2018 under Section 307 of I.P.C., Police Station- Maudarwaza, District- Farrukhabad, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, the applicant is alleged to have inflicted fire arm injury on the leg of the father of the informant. As per the supplementary medical report, the injuries on the right leg were found simple in nature. It is contended that the applicant did not had any intent to kill the injured. The criminal history of the applicant has been explained in para no. 24 of the affidavit. It is next contended that the applicant is in jail since 06.10.2018. The trial is moving at a snail's pace and is not likely to conclude early. The applicant is not responsible for the delay in the trial. Inordinate delay in concluding the trial has led to virtually and indefinite imprisonment of the applicant without there being any credible evidence to implicate him in the offence and violates the rights of the applicant to a speedy trial. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned brief holder for the State has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record this Court prima facie finds that the injury sustained by the injured are on non vital part of the body. At this stage, it cannot be said that the applicant had intent to kill the injured. Further, the applicant has remained confined for more than five years and there is inordinate delay in trial. Further, there is no hope of early conclusion of trial, more so when no reasonable

apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Jauhari Yadav**, involved in aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 23.11.2023

Sachin Mishra