

Court No. - 48

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45816 of 2023

Applicant :- Taufiq

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

Counsel for Applicant :- Sanjay Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Saurabh Shyam Shamshery,J.

1. Heard Sri Sanjay Kumar Mishra, learned counsel for the applicant, Sri A.K.Ojha, learned Brief Holder for State and perused the record.

2. This is the second bail application. First bail application was disposed of on 11.4.2023 by a reasoned order.

3. The applicant has approached this Court by way of filing the present Criminal Misc. Bail Application seeking enlargement on bail in Case Crime No.05 of 2022, under Sections 363, 366, 376, 120B, 323, 504, 506 I.P.C. and 3/4 POCSO Act, Police Station-Madanpur, District-Deoria.

4. Learned counsel for the applicant submitted that subsequently statement of victim has been recorded however, she has not supported the prosecution case in her examination-in-chief and was declared hostile.

5. In the aforesaid circumstances, this Court has sought a report from Trial Court about present status of trial.

6. A report has been submitted by Trial Court that out of proposed 16 prosecution witnesses till date only two have examined and trial could be concluded within a period of one year.

7. Learned Brief Holder has not disputed the nature of evidence so far as victim is concerned.

8. In the aforesaid circumstances considering the nature of testimony of the victim as well as that applicant is languishing in jail since 11.10.2022, applicant has made out a case for bail.

9. Let the applicant-**Taufiq**, 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 concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(iv) The Trial Court may make all possible efforts/endeavour and try to conclude the trial expeditiously, preferably within a period of six months after release of the applicant, if there is no other legal impediment.

(v) Applicant has to appear on each and every date before learned Trial Court and any application for exemption of his appearance on vague ground could be a ground for cancellation of bail by learned Trial Court without even issuing notice.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is **allowed**.

12. It is made clear that the observations made hereinabove are only for the purpose of adjudicating the present bail application.

Order Date :- 29.11.2023

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