

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46208 of 2023

Applicant :- Jai Bharti

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

Counsel for Applicant :- Vinai Shanker Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.38 of 2023 at Police Station-Adampur, District-Varanasi under Section 376(3) IPC and Section 5J(2)/6 of the POCSO Act. The applicant is in jail since 11.04.2023.

The bail application of the applicant was rejected by the learned trial court on 02.05.2023.

The following arguments made by Shri Vijai Shanker Singh, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Shashi Kant Srivastava, learned counsel for the informant and 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 victim who is the first informant in her testimony before the learned trial court has repudiated the prosecution case. The victim has been declared hostile by the learned trial court at the instance of the prosecution.

The mother of the victim in her testimony before the learned trial court has repudiated the prosecution case. The said witness has also been declared hostile by the learned trial court at the instance of the prosecution.

3. 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.

4. As per charge-sheet, the prosecution proposes to examine 17 witnesses to bring home the charges against the applicant.

5. 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.

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

7. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court 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-Jai Bharti 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 :- 1.11.2023

Ashish Tripathi