

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 59206 of 2022

Applicant :- Nandu Singh @ Nand Kishor Singh @ Gyanendra Singh

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

Counsel for Applicant :- Raja Ram Kushwaha

Counsel for Opposite Party :- G.A., Rachna Tiwari

Hon'ble Vivek Varma, J.

1. Case called out. Despite service of notice upon the learned counsel for the informant- opposite party no. 2 by the learned counsel for the applicant, learned counsel for the opposite party no. 2 is not present when the case is taken up. The receiving endorsement produced by learned counsel for the applicant is taken on record. Even after service of notice upon the opposite party no. 4, no one appears on its behalf. No counter affidavit has been filed on behalf of opposite party nos. 2 and 4.
2. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.
3. 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. 157 of 2022, under Sections 354 Kha I.P.C. and 10 Protection of Children from Sexual Offences Act, Police Station Biwanr, District Hamirpur during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case owing to certain other disputes between the parties. The applicant did not act inappropriately with the victim. The incident is alleged to have occurred at a public place. There is no independent witness to the alleged incident. As per the medical report, no injury was seen on the body of the applicant. The applicant is in jail since 13.07.2022. The applicant is a law abiding citizen and he cooperated with the police investigation and has joined the trial. 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. The criminal history of the applicant has been explained in Paragraph-3 of the supplementary affidavit. The applicant if released on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the incident is alleged to have occurred at a public place. There is no independent witness to the alleged incident. As per the medical report, no injury was seen on the body of the applicant. At this stage there is no substantive evidence against the applicant. Moreover, the applicant has remained confined for almost one year and four months and there is no hope of early conclusion of trial, and 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 delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- Nandu Singh @ Nand Kishor Singh @ Gyanendra Singh, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of 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; and,
- (iii) shall not pressurize the prosecution witnesses.

8. 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 :- 2.12.2023
SKT/-