

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51844 of 2023

Applicant :- Shishupal @ Pandit

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukti Nath Pandey, Pawan Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and perused the record.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 283 of 2022, under Sections 363, 370, 34 I.P.C., and Section 81 of J.J. Act, Police Station- Mundhapandey, District- Moradabad during pendency of the trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested along with three others and has been falsely implicated in the instant case. False recovery of a child has been shown from the possession of the applicant. There is no independent witness to the recovery. It is next contended that the co-accused Dhanpal and Neetu, who were arrested along with the applicant have been granted bail by this Court vide orders dated 22.3.2023 and 16.5.2023 passed in Criminal Misc. Bail Application Nos. 8361 of 2023 and 21798 of 2023 respectively. The applicant is in jail since 2.10.2022. 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 applicant does not have any criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. 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 applicant was not named in the first information report. There is no independent

witness to the recovery. The co-accused Dhanpal, and Neetu have been granted bail by this Court. The applicant has no criminal antecedents. The applicant has presently remained confined for more than one year and two months and 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, **Shishupal @ Pandit** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 4.12.2023
S.S.