

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8425 of 2023

Applicant :- Ram Harakh @ Bauwa

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

Counsel for Applicant :- Karunesh Singh, Vijay Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Ram Harakh @ Bauwa** for grant of bail, in Case Crime No. 320 of 2018, under Sections 302 IPC, Police Station Mohanlalganj, District Lucknow, during trial.

3. The second bail application has been moved on behalf of the applicant as the first bail application of the applicant has been rejected by this Court vide order dated 3.12.2021 passed in Bail No. 1034 of 2019.

4. Learned counsel for the accused-applicant while pressing the second bail application submits that the cause of action for preferring the second bail application has occurred as in the earlier order whereby the prayer for bail of the applicant was rejected the evidence of doctor was considered while the statement of the doctor would reveal that there is material contraction in the oral account of the incident and medical evidence.

5. It is further submitted that it is over five years, the applicant is in jail in this case and having regard to the pace with which the trial is going on before the trial court, the same is not going to conclude in near future. The applicant is in jail in this case since 14.6.2018 and he is not having any criminal antecedents. Charge sheet in the matter has already been filed and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

6. Learned A.G.A., on the other hand, submits that the first bail application of the applicant has already been rejected on merits

and thereafter, there is no new ground available to the applicant for consideration of his prayer of bail again without there being substantial change in circumstances. Thus, the applicant is not entitled for any relief.

7. Having heard learned counsel for the parties and having perused the record, it is evident that the first bail application of the applicant has been rejected on 03.12.2021. While rejecting the prayer for bail of the applicant, a direction was simultaneously issued to the trial court to make all out efforts to conclude the trial within a period of eight months from production of a certified copy of that order before the trial court. Nothing has been brought before this Court which may suggest that the order dated 03.12.2021 has been placed before the trial court. Thus, prima facie, the applicant may not take any advantage of the so-called delay occurred in disposal of the case pending before the trial court. This Court had requested the trial court to submit a status of the trial and the report of date 11.10.2023 has been furnished to this Court stating therein that till now, seven prosecution witnesses have been testified. Thus, the trial appears to be at a concluding stage. The merit of the case has been elaborately discussed in the order dated 03.12.2021 whereby the first bail application of the applicant was rejected and thus, there is no need to reiterate those grounds again.

8. Having regard to the manner with which the crime has been committed and the role played by the applicant and also evidence which is available, the applicant is not entitled to be released on bail. Thus, this second bail application moved on behalf of the applicant is also **rejected**.

9. Even though the order dated 03.12.2021 has not been placed before the trial court by the applicant, it appears in the interest of justice, having regard to the period of incarceration already undergone by the applicant, that suitable directions be given to the trial court for culmination of trial.

10. The trial court is thus directed to conclude the trial within a period of three months from production of a certified/authenticated copy of this order before it and if in this regard the case is required to be listed once or twice in a week, the trial court shall do so.

11. The responsibility of producing the prosecution witness(es) shall be on the Joint Commissioner of Police, Lucknow who shall be personally responsible for producing the prosecution witness(es) on each and every date on which the case would be listed before the trial court and any lapse in this regard would

be seriously taken by this Court.

12. A copy of this order be transmitted to the trial court through Sessions Judge concerned and also be provided to learned AGA immediately, free of cost, so as to be transmitted to the Joint Commissioner of Police, Lucknow for strict compliance.

Order Date :- 23.11.2023

Shravan