

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9920 of 2023

Applicant :- Meraj

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

Counsel for Applicant :- Manoj Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

1. Heard Shri Manoj Kumar Singh, 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- **Meraj** for grant of bail, in Case Crime No. 517 of 2016, under Sections 302, 201, 120B IPC, Police Station Kotwali Dehat, District Bahraich, during trial.
3. Learned counsel for the accused-applicant while pressing the third bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed by the prosecution.
4. It is further submitted that the first bail application of the applicant was rejected on 26.4.2019 and the second bail application was moved by the applicant which was also rejected by this Court on 18.2.2021 and while not finding the case of the applicant for bail, a direction was given by this Court to the trial court to make all out efforts to conclude the trial within one year without granting soft adjournments to either parties. However, till now, the trial has not concluded and only the witnesses of fact have been examined before the trial court. The case is now fixed for recording the statement of the accused under Section 313 CrPC.
5. It is further submitted that there are three accused persons in this case and the recording of their statement under Section 313 CrPC would take some time and moreover, each one of the accused would also take its own defence and will produce witnesses of his choice and therefore, there is no possibility that the trial may be culminated in near future.

6. It is vehemently submitted that the applicant is in jail in this case since 29.3.2016 (7 years and 8 months) and the applicant is not privy to the delay caused in culmination of the trial and the delay which had occurred in the case could only be attributed to the prosecution and the prosecution in the guise of producing witnesses may not detain an accused for indefinite period. The applicant is not having any criminal antecedents. Only recovery of one hammer and 'Gadasa' has been shown on the pointing of the applicant and the case of the prosecution rests on circumstantial evidence.

7. It is also submitted that the applicant shall cooperate in the trial. He is having immovable property within the jurisdiction of the trial court and therefore, after release on bail, he would not be able to flee from the process of law and also would not be able to influence the prosecution witnesses as all the prosecution witnesses have been testified before the trial court.

8. Learned A.G.A., on the other hand, submits that earlier two bail applications of the applicant have been rejected on merits and there is no substantial change in circumstances. Thus, the applicant is not entitled for any relief.

9. Having heard learned counsel for the parties and having perused the record, it is evident that the applicant is in jail in this case since 29.3.2016. The case of the prosecution against the applicant is based on circumstantial evidence and recovery of hammer and 'Gadasa' has been shown and the same has also been found bloodstained and the forensic report fortifies human blood on these articles.

10. There is another angle of this case. The applicant is in jail in this case since 29.3.2016. Thus, it has been 7 years and 8 months, the applicant is in jail in this case. Prima facie, the delay occurred in the case may not be attributed to the applicant. Learned counsel for the applicant has relied on the judgement of the Supreme Court in ***Paras Ram Vishnoi vs. the Director, Central Bureau of Investigation*** decided by the Apex Court on 27.7.2021 in Criminal Appeal No. 693 of 2021 arising out of S.L.P. (Criminal) No. 3610/2020, whereby the bail of an accused person has been granted keeping in view the period of incarceration already undergone by him.

11. This Court is also of the view that having regard to the gravity of the offence and the evidence available against the accused/under trial who is also carrying presumption of innocence, he may not be placed behind the bars for indefinite period. The applicant is in jail in this case for 7 years and 8 months which, in the considered opinion of this Court, is

sufficient enough to exercise discretion in favour of the applicant without considering the merits of the case, more so, when the applicant is not having any criminal history and is stated to have roots in the society. There appears no apprehension that after being released on bail, the applicant may flee from the process of law or may otherwise misuse the liberty. Charge sheet in the matter has already been filed. His presence could be secured before the trial court by placing any adequate conditions.

12. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits and demerits of the case, I am of the considered view that applicant has made out a case for bail. Thus, the instant third bail application moved on behalf of the applicant is **allowed**.

13. Let the applicant- **Meraj** involved in the aforesaid case be released on bail on furnishing a personal bond with two heavy sureties, one of whom shall be the blood relative of the applicant, in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall file an undertaking before the trial court that he shall remain present before the trial court on each and every date of listing of the case and would do all which is required for the expeditious disposal of the case and would not seek any adjournment when the case would be listed for hearing of arguments and if, in any exigency, he is not in a position to appear before the trial court, he shall instruct his counsel engaged at the level of the trial court to do all which would be necessary for the disposal of the case.

(ii) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(iii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iv) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

14. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

15. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are

accepted.

16. Observations made herein-above are only for the purpose of disposal of bail application and the same shall not have any bearing on the trial of the case.

Order Date :- 30.11.2023

Shravan