

Court No. - 82

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4785 of 2024

Applicant :- Sanjay Chaurasiya

Opposite Party :- State of U.P.

Counsel for Applicant :- Indra Raj, Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A., Shiv Kant Mishra

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call.
2. Supplementary affidavit filed on behalf of the applicant is taken on record.
3. Heard Shri Manoj Kumar Srivastava, learned counsel for the applicant and Shri Brijesh Pratap Singh, learned AGA for the State-respondent.
4. The instant second application has been filed seeking release of the applicant on bail in Case Crime No.265 of 2020, under Sections 307, 302, 504, 506 I.P.C. and Section 7 Criminal Law Amendment Act, Police Station Kotwali, District Mathura, during pendency of the trial in the court below.
5. Learned counsel for the applicant submits that this is the second bail application filed on behalf of the applicant and his first application has been dismissed on merit by this Court vide order dated 08.08.2023 but he is pressing the instant second bail on the ground that applicant is in jail in the present matter since 25.07.2020 i.e. for last more than five years and till date trial of the case could not be concluded.
6. He further submits that in the charge-sheet, there are as many as

29 prosecution witnesses but till date only eight witnesses could be examined by the trial court and therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.

7. He further submits that alongwith supplementary affidavit, he has filed order-sheet of the case, which suggests that due to lack luster attitude of the prosecution witnesses, trial of the case is still pending and from the order-sheet of the case, it could not be reflected that applicant caused any delay in trial.

8. He further submits that law is settled that even if the allegations are serious then also on the ground of long incarceration, an accused can be released on bail. He placed reliance on the judgment of the Apex Court passed in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another (Arising out of SLP (Crl) No.3809 of 2024 and Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh [2024 SCC Online SC 1755]**. He next submits, considering the fact that applicant is in jail in the present matter for last more than five years, it cannot be said that his fundamental right of speedy trial has not been violated.

9. He further submits that even as far as merit of the present case is concerned, however, it is a case of double murder in which one person also sustained injury but as per allegation, applicant and five others opened indiscriminate firing but out of two deceased, only deceased Basant Lal died due to firearm and he sustained only single firearm injury and another deceased and injured sustained lacerated wounds and this fact suggests that on the basis of false allegation, applicant has been roped in the present matter alongwith with others.

10. He further submits that injured of the case has already been

examined by the trial court as P.W.-5, therefore, there is no chance of any tampering with the prosecution evidence if applicant will be enlarged on bail.

11. He further submits that applicant is having no criminal history to his credit.

12. Per contra, learned AGA opposed the prayer for bail and submits that this is the second bail application filed on behalf of the applicant and his first bail application has been dismissed by this Court after considering the fact that it is a case of double murder and one person also sustained injury but could not dispute the fact that applicant is in jail in the present matter since 25.07.2020 i.e. for last more than five years and till date out of 29 prosecution witnesses of the charge-sheet, only eight witnesses could be examined by the trial court.

13. He further could not dispute the fact that from the record, it reflects, inspite of repeated summons, prosecution witnesses were not appearing before the trial court and record could not suggest that applicant caused any delay in trial.

14. He further also could not dispute the fact that applicant is having no criminal history to his credit.

15. I have heard learned counsel for the parties and perused the record of the case.

16. However, this is the second bail application filed on behalf of the applicant and his first bail application has already been dismissed on merit by this Court and it appears to be a case of double murder in which one person also sustained injury but it reflects, applicant is in jail in the present matter since 25.07.2020 i.e. for last more than five years and till date trial of the case could not be concluded.

17. From the record, it reflects that till date out of 29 prosecution witnesses of the charge-sheet, only eight witnesses could be examined by the trial court, therefore, it appears that trial of the case is moving with languid pace and there is no hope of its early disposal.

18. Further, considering the long incarceration of the applicant, a report was called from the court concerned about reason of delay in trial. Pursuant to the order passed by this Court, trial court has submitted its report, which is now on record and from its perusal, it reflects that due to non-appearance of the prosecution witnesses trial of the case could not be concluded and from the record, it could not be reflected that applicant caused any delay in trial, rather it appears, prosecution witnesses are responsible for the delay.

19. Further, law is settled, right of speedy trial is the fundamental right of an accused and on its violation even in serious cases, he can be released on bail. Considering the long incarceration of applicant of more than five years and the fact that it could not be reflected that applicant caused any delay in trial, rather it reflects, prosecution witnesses are causing delay in trial, it cannot be said that his fundamental right of speedy trial has not been violated.

20. The Apex Court in the case of **Javed Gulam Nabi Shaikh (supra)** and **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari (supra)** on which reliance was placed by learned counsel for the applicant held that even if allegations are serious then also on the ground of long incarceration and on violation of his fundamental right of speedy trial an accused can be released on bail.

21. Further, applicant is having no criminal history to his credit.

22. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

23. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

24. Let the applicant- **Sanjay Chaurasiya** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

25. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

26. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 31.7.2025

Zafar