

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No 6983 of 2015**

Mukesh Shrivastava S/o Ram Babu Shrivastava Aged About 51 Years R/o House No. 17 & 18, Aashray Parisar, P.S. Telibandha, Choubey Colony, Raipur Chhattisgarh

---- Petitioner**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Telibandha, District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Praveen Das, Advocate
For Respondent/State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****11/12/2015**

Heard.

2. This application for grant of bail has been moved by the applicant on the ground of inordinate delay in completion of trial.

3. Learned counsel for applicant argued that even if the applicant has been charged with the allegation of commission of offence under Section 302 of IPC, his right to expeditious trial cannot be denied. He submits that the applicant is in jail since 14-07-2012. Initially, the offence was registered under Section 307 of IPC along with other offences, but later on, as the victim died, offence under Section 302 of IPC was registered and supplementary charge sheet was filed on 07-09-2013. Thereafter, the witnesses who were already examined, were again re-examined and the trial is still pending mainly because the official witnesses

including the police witnesses are not appearing to depose before the trial Court despite issuance of summons and warrants. It is submitted that the prosecution witnesses i.e. doctor and police witnesses are not turning up, which is the main reason for delay in trial. The order sheets have also been placed on record.

4. On the other hand, learned State counsel opposed the prayer by submitting that this Court has already rejected the application for grant of bail on merits taking into consideration the nature and gravity of allegation against the applicant, therefore, only on the ground of delay, the applicant is not entitled to grant of bail as he is likely to flee away from justice.

5. The present is a case, in which, the applicant is being tried on the allegation of commission of offence under Section 302 of IPC along with allegations of commission of other offences under IPC. This Court has already considered the application on merits and rejected the same.

6. The applicant, however, has prayed for grant of bail on the ground of inordinate delay in conclusion of trial.

While, the right of the accused to get expeditious trial, cannot be denied nor undermined, at the same time, this Court has also to keep in mind the nature and gravity of allegation, for which, the applicant is being tried. Considering that present is a case, where the applicant is alleged to have committed offence under Section 302 of IPC, this Court having already rejected the application on merits, grant of bail would not be proper at this stage. At the same time, the expeditious conclusion of trial is also required to be ensured

7. In the result, I am not inclined to grant bail to the applicant. The application is rejected. However, the trial Court is directed to conclude the trial expeditiously by taking coercive steps against the official witnesses, who are not turning up to

depose before the trial Court, despite issuance of summons and warrants. The warrants & summons issued by the trial Court for appearance of the official witnesses, need to be scrupulously followed without any exception.

8. It is common ground in large number of cases that official witnesses are not turning up to depose before the Court despite frequent issuance of summons and warrants both bailable and non-bailable. This requires proper attention for the system to ensure fair and expeditious trial of criminal cases in the larger interest of criminal justice delivery system. The trial Court shall make all endeavour to conclude the trial within an outer limit of four months from the date of receipt of a copy of this order. Learned counsel for the State shall forward a copy of this order to the State Government as also to the Director (Prosecution) for taking all necessary steps to ensure presence of official witnesses during trial.
9. With the aforesaid directions of expeditious trial, the application is rejected.

Sd/-
Manindra Mohan Shrivastava
Judge