

Vinay Rai Alias Bholu Rai vs State Of U.P. on 31 January, 2025

Author: Ajay Bhanot

Bench: Ajay Bhanot

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:14472

Court No. - 5

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45072 of 2024

Applicant :- Vinay Rai Alias Bholu Rai

Opposite Party :- State of U.P.

Counsel for Applicant :- Ramesh Chandra Tiwari

Counsel for Opposite Party :- G.A.,Vivek Saran

Hon'ble Ajay Bhanot,J.

Heard Sri Sushil Kumar Dubey, learned counsel holding brief of Sri Ramesh Chandra Tiwari, learned counsel for the applicant, Shri Vivek Saran, learned counsel for the informant and learned A.G.A for the State.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 17 of 2024 at Police Station - Nandganj, District Ghazipur, under Sections 147, 148, 149, 302, 504, 34 IPC. The applicant is in jail since 02.09.2024.

The bail application of the applicant was rejected by learned trial court on 23.09.2024 and 18.10.2024.

The applicant has been identified as one of the principal offender who discharged his firearm and shot dead the deceased. There is an eye witness to the incident. The applicant had the intent to kill the deceased. The offence is grave. There is likelihood that the applicant had committed the offence.

At this stage, no case for bail is made out.

Without going into the merits of the case, the bail application is dismissed.

Sri Sushil Kumar Dubey, learned counsel for the applicant contends that the trial is moving at a snail's pace and shows no sign of early conclusion. The prosecution is deliberately delaying the conduct of the trial to prolong the incarceration of the applicant. Various other aspects delaying the trial have also been highlighted including the failure of the trial court to faithfully implement the mandate of Section 309 Cr.P.C. Other bottlenecks which cause delay in trials in the State of U.P. like failure of the police to promptly serve the summons and execute coercive measures issued by the trial court to compel the appearance of the witnesses have also been brought to the notice of the Court. Learned counsel's submissions are well founded and are liable to be addressed.

Considering the gravity of the offence, interest of justice will be served by directing the learned trial court to expedite the trial.

Though no specific time frame to conclude the trial has been set out in the Cr.P.C., yet the legislative intent of Section 309 Cr.P.C. is explicit. The scheme of the provision clearly shows that the legislative intent is to conclude the trial in an expeditious time frame. In the facts of this case, the learned trial court shall make all endeavours to conclude the trial expeditiously. Preferably the trial court shall set for itself a reasonable time frame to conclude the trial say one year from the date of receipt of a certified copy of this order.

The trial court has also to be conscious of the rights of the accused persons and is under obligation of law to ensure that all expeditious, necessary and coercive measures as per law are adopted to ensure the presence of witnesses. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

All witnesses and counsels are directed to cooperate with the trial proceedings.

The learned trial court shall issue summons by regular process as per Section 62 Cr.P.C. and also by registered post as provided under Section 69 Cr.P.C. to expedite the trial.

The learned trial court shall promptly take out all strict coercive measures against all the witnesses in accordance with law who fail to appear in the trial proceeding. Counsels or parties who delay or impede the proceedings should not only be discouraged from doing so but in appropriate cases exemplary costs should also be imposed on such parties/ counsel.

The police authorities shall ensure that warrants or any coercive measures as per law taken out by the learned trial court to ensure that the attendance of the witnesses are promptly executed.

The Superintendent of Police, Ghazipur shall file an affidavit before the trial court on the date fixed regarding status of execution of the warrants/service of summons taken out by the learned trial

court.

The delay in the trials caused by the failure of the police authorities to serve summons or execute coercive measures to compel the appearance of witnesses at the trial despite a statutory mandate, is an issue of grave concern. The said issue had arisen for consideration before this Court in Bhanwar Singh @ Karamvir Vs. State of U.P. reported at 2023 SCC OnLine All 734 & Jitendra v. State of U.P. (Criminal Misc. Bail Application No.9126 of 2023) and was decided by the judgements dated 24.08.2023 & 20.12.2023 respectively. This Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) had issued certain directions to the police authorities regarding their statutory duty to promptly serve summons and execute coercive processes to compel the appearance of witnesses.

The Director General of Police, Government of U.P. as well as Principal Secretary (Home), Government of U.P. had taken out relevant orders in compliance of judgements in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and nominated the Senior Superintendent of Police of the concerned districts as the nodal officials for implementing the said judgments.

The counsels as well as the learned trial court are directed to comply with the directions issued by this Court in Noor Alam Vs. State of U.P. reported at 2024 (5) ADJ 766. In case any strike happens during the course of the trial, the learned trial court is directed to ensure full compliance of the directions issued in Noor Alam (supra) to prevent delay in the trial.

In case the police authorities are failing to comply with the directions issued by this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) and do not implement the said directions of the Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. in regard to service of summons and execution of coercive measures to compel the appearance of witnesses, the learned trial court shall direct the concerned Senior Superintendent of Police to file an affidavit in this regard.

The learned trial court shall be under an obligation to examine whether the judgements of this Court in Bhanwar Singh @ Karamvir (supra) & Jitendra (supra) as well as directions of Director General of Police, Government of U.P. & the Home Secretary, Government of U.P. issued in compliance thereof have been implemented or not and to take appropriate action as per law.

The learned trial court shall also take appropriate measures in law after receipt of such affidavit which may include summoning the concerned officials in person.

It is further directed that in case any accused person who has been enlarged on bail does not cooperate in the trial or adopts dilatory tactics, the learned trial court shall record a finding to this effect and cancel the bail without recourse to this Court.

The trial judge shall submit a fortnightly report on the progress of trial and the steps taken to comply with this order to the learned District Judge.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Ghazipur as well as Superintendent of Police, Ghazipur by the Registrar (Compliance) by E-mail.

Order Date :- 31.1.2025 Vandit