

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49583 of 2022

Applicant :- Kishan Rawat

Opposite Party :- State of U.P.

Counsel for Applicant :- Sitesh Kumar, Hemendra Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

By means of the second bail application, the applicant has prayed to be enlarged on bail in Case Crime No.165 of 2021 at Police Station-Rudrapur, District-Deoria under Sections 419, 420, 418, 468 IPC and Sections 66-C and 66-D of the Information Technology Act.

The first bail application of the applicant was rejected by this Court on 07.04.2022.

The following arguments made by Shri Hemendra Pratap Singh, learned counsel and Shri Sitesh Kumar, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned A.G.A.-I for the State from the record, entitle the applicant for grant of bail:

(1). As per charge-sheet, the prosecution proposes to examine 17 witnesses to bring home the charges against the applicant. However, till date five witnesses have been examined.

(2). The applicant is in jail since 07.08.2021. The applicant is a law abiding citizen who cooperated in the investigations and has joined the trial proceedings.

(3). The trial is moving at a snail's pace and shows no signs of an early conclusion.

(4). The applicant is not responsible for the delay in the trial.

(5). Inordinate delay in the trial will lead to indefinite imprisonment of the applicant.

(6). Right of the applicant to a speedy trial has been violated.

(7). The applicant has explained his criminal history. It is also contended that the applicant has been falsely nominated in another case only to show the proficiency of the police investigators. The said criminal case does not have any bearing on the instant bail application.

(8). The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant-Kishan Rawat be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.
- (ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

The trial court is proceeding in accordance with the directions of this Court after the order passed by this Court was brought to the notice of the learned trial court.

However, in view of the facts and circumstances of this case, it is imperative to pass the following order in the interest of justice.

The trial court is directed to conclude the trial within a period of one year from the date of receipt of a certified copy of this order. The learned trial court

shall proceed with the hearing on a day to day basis to ensure that the above stipulated timeline of one year is strictly adhered to. All witnesses and counsels are directed to cooperate with the trial proceedings.

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.

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 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, Deoria.

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 is promptly executed.

The Superintendent of Police, Deoria shall file an affidavit before the trial court on the date fixed regarding execution of the warrants/coercive measures taken out by the learned trial court. In case there is a failure on part of the police authorities to execute the warrants or other coercive measures, the Superintendent of Police, Deoria shall disclose the reasons in the said affidavit and also show the steps taken to execute the warrants. The Superintendent of Police, Deoria shall simultaneously inform the Additional Director General of Police (ADG) Zone, Gorakhpur about the aforesaid failure of the police authorities in the first instance to execute the warrants and coercive measures taken to ensure due compliance. If required, the Additional Director General of Police (ADG) Zone, Gorakhpur may issue an appropriate directions to ensure that the warrants issued are promptly executed by the learned trial court.

The delay in execution of warrants and non-

attendance of witnesses is one of the principal causes of delays which bendable criminal justice system and have to be addressed effectively by all stakeholders.

The Registrar General to transmit a copy of this order to the learned trial judge through the learned District Judge, Deoria, also to Superintendent of Police, Deoria and Additional Director General of Police (ADG) Gorakhpur Zone for compliance.

Order Date :- 1.3.2023

Ashish Tripathi