

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17940 of 2022

Applicant :- Mahesh Chandra Shukla

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Srivastava

Counsel for Opposite Party :- G.A.,Chandra Prakash Pandey

Hon'ble Ajay Bhanot,J.

The Registrar (Judicial) (Criminal) prays for and is granted one week more time to submit a clearer report on the cause for failure of the registry to comply with the order of this Court and suggestions of systemic corrections.

Records of the case from the Court have been received to the concerned section on 13.07.2022 complying with the order dated 11.07.2022.

By means of this 4th bail application, the applicant has prayed to be enlarged on bail in Case Crime No.330 of 2009 at Police Station-Soraon, District-Allahabad under Sections 302, 307, 323, 504, 506 IPC and Section 7 of the Criminal Law Amendment Act.

Shri Anil Kumar Srivastava, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant does not have any criminal history apart from the instant case. The applicant is in jail since 12.07.2009. The trial has not concluded till date. Inordinate delay in the trial will lead to indefinite

incarceration of the applicant. This will result in a miscarriage of justice.

The Court by order dated 04.07.2022 directed the learned trial court, Allahabad to send a report regarding the cause for delay and status of the trial. The report sent by the learned trial Court, Allahabad does not indicate that the applicant was in any manner responsible for the delay.

The applicant has a fundamental right to speedy justice. Further, incarceration of the applicant in the facts of this case will lead violation of the right to speedy trial.

There are good authorities of constitutional courts which have held that the right to speedy trial is a fundamental right. Thirteen years of incarceration without conclusion of the trial in the facts of this case has violated this right of the applicant. The trial in its comments has sought to assure the Court that the trial be concluded expeditiously. In view of the past conduct of the trial, this Court cannot assurance on its face value.

Shri Paritosh Kumar Malviya, learned A.G.A. as well as Shri Chandra Prakash Pandey, learned counsel for the informant could not satisfactorily dispute the aforesaid submissions from the record. They, however, do not dispute the fact that the

applicant does not have any criminal history apart from this case.

I find merit in the submissions of learned counsel for the applicant and accordingly held that the applicant is entitled for interim bail.

The trial court shall make all endeavours to conclude the trial.

Let the applicant-Mahesh Chandra Shukla be released on interim 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 concerned subject to following conditions.

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) 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 to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the

prosecution shall be at liberty to move an application for interim bail before this Court.

Put up this matter on 02.08.2022 in the list of fresh cases.

Order Date :- 21.7.2022
Ashish Tripathi