

Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34950 of 2024

Applicant :- Manoj

Opposite Party :- State of U.P.

Counsel for Applicant :- Ambrish Kumar Kashyap

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

This is fourth bail application of the applicant. The first, second and third bail applications of the applicant were rejected vide order dated 05.04.2018, 18.07.2022 and 05.04.2023 respectively in Criminal Misc. Bail Application Nos. 21550 of 2017, 19321 of 2021 and 35581 of 2022.

The instant fourth bail application of the applicant has been moved mainly on the ground of long detention of the applicant in jail since 13.02.2017.

Main substratum of argument of learned counsel for the applicant is that the applicant has been languishing in jail since 13.02.2017 but till date, his trial has not been concluded. It is also pointed out that in the last more than seven and a half years, the prosecution has produced only three prosecution witnesses before the trial Court, which amounts to violation of guidelines laid down by the Hon'ble Supreme Court in this regard.

Considering the laches on the part of the prosecution, a Coordinate Bench of this Court has granted bail to co-accused Pancham Singh @ Panchhi vide order dated 13.09.2024 in Criminal Misc. Bail Application No. 21168 of 2024, therefore, apart from merit of the case, the applicant is also entitled for bail on the ground of parity of aforesaid order dated 13.09.2024.

Since such type of matters are frequently coming to this Court where prosecution is not producing the prosecution witnesses on time even in heinous matters whereas in several cases, the Hon'ble Supreme Court has granted bail to such accused, who are under long incarceration, and sincere efforts are not being made by the prosecution to conclude

their trial irrespective of gravity of an offence, which is violative of Article 21 of the Constitution of India.

This Court is also of the view that a person cannot be detained for indefinite period if the prosecution is not taking interest and making sincere effort to produce the prosecution witnesses before the trial Court. The present case is also one of those cases which prima facie indicates slackness on the part of the prosecution.

Under the facts of the case, before passing final order in the matter, it would be appropriate to call for a report from the concerned Presiding Officer.

Let a report be called for from the concerned Presiding Officer with regard to the present status of trial of the applicant. The report shall also indicate in detail the proceeding of the case mentioning that as to why trial has not yet been concluded and who is responsible for delay in trial of the accused-applicant.

List this case on 17.10.2024 as fresh alongwith record of previous bail applications.

In the meantime, Director General of Police, U.P., Lucknow shall also file his personal affidavit as to why prosecution is not producing the prosecution witnesses before the trial Courts even in heinous matters and being head of the police department in State of Uttar Pradesh, what steps have been taken by him to ensure production of prosecution witnesses on the dates fixed before the trial Courts. If in any matter, he has fixed the responsibility of erring official/person concerned, the detail of the same shall also be brought on record through his affidavit.

Registrar (Compliance) of this Court is directed to communicate this order to the concerned trial Court as well as Director General of Police, U.P., Lucknow for information and compliance.

Order Date :- 27.9.2024

Shubham