

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11910 of 2024

Applicant :- Mange @ Ravindra

Opposite Party :- State Of Up And 3 Others

Counsel for Applicant :- Rajeev Kumar Singh Parmar, Sunil Kumar Dwivedi

Counsel for Opposite Party :- Ashish Srivastava, G.A.

Hon'ble Ajay Bhanot, J.

Personal affidavit of Shri Shlok Kumar, Senior Superintendent of Police, Bulandshahar filed by the learned A.G.A.-I is taken in the record.

Heard Shri Rajeev Kumar Singh, learned counsel and Shri Sunil Kumar Dwivedi, learned counsel for the applicant, Shri Ashish Srivastava, learned counsel for the informant and Shri Chandan Agarwal, learned A.G.A.-I for the State.

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No.997 of 2023 at Police Station-Khurja Nagar, District-Bulandshahar under Sections 376D, 506 IPC and Sections 5G/6 of the POCSO Act. The applicant is in jail since 12.11.2023.

The bail application of the applicant was rejected by learned trial court on 05.12.2023.

The applicant has been identified as the principal offender who committed rape with the victim. The applicant also captured indecent videos of the victim. The said videos have been recovered from the applicant. Storing and circulating indecent videos of ladies is becoming a serious

menace in the society. Further investigation as regards the aforesaid indecent videos is still on foot. The victim is vulnerable. Enlarging the applicant on bail at this stage will not be conducive to a fair trial or investigation. The offence is grave. There is likelihood that the applicant 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.

However, in the interest of justice and considering the nature of the offence, this Court deems it appropriate to direct the learned trial court to conclude the trial in an expeditious time frame.

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 preferably within a period of 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.

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 Senior Superintendent of Police, Bulandshahar 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.

In case there is a failure on part of the police authorities to execute the warrants or other coercive measures, the

Senior Superintendent of Police, Bulandshahar shall state the reasons for the same in the said affidavit and also show the steps taken to execute the warrants. The Senior Superintendent of Police, Bulandshahar shall simultaneously inform the Additional Director General of Police (ADG), Meerut Zone about the aforesaid failure of the police authorities in the first instance to execute the warrants and coercive measures issued by the learned trial court. If required, the Additional Director General of Police (ADG), Meerut Zone 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 consequent absence of witnesses is one of the principal causes of delays in criminal trials and has to be addressed effectively by all stakeholders.

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.** rendered in **Criminal Misc. Bail Application No. 53159 of 2021**. 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)** so that the pace of the trial does not suffer.

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 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. (Criminal Misc. Bail Application No. 16871 of 2023) & 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 responsible officials for implementing the said judgments.

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.

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, Bulandshahar as

well as Senior Superintendent of Police, Bulandshahar by the Registrar (Compliance) by e-mail.

Before parting this Court would like to some observations. The Court notices that various deficiencies have been admitted by the Senior Superintendent of Police, Bulandshahar in the conduct of the investigations. Though they have been rectified during the course of further investigations. Poor quality of investigation in I.T. related offences/cyber offences is becoming a major fault-line in the functioning of the investigations. The Court has voiced its concern time and again. The Court had also issued directions to ensure that both the systemic inadequacies are addressed by the police authorities, namely, the failure to proper investigate the cyber crimes and poor supervision over the investigations.

Registry is directed to send a copy of this order to the learned Government Advocate for placing the same to the Director General of Police, Lucknow, Uttar Pradesh.

Order Date :- 9.5.2024

Ashish Tripathi