

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27144 of 2024

Applicant :- Ashfak

Opposite Party :- State Of U.P. & 3 Others

Counsel for Applicant :- Brij Bhushan Upadhyay

Counsel for Opposite Party :- G.A., Ved Prakash Singh

Hon'ble Ajay Bhanot, J.

This is the first bail application.

The applicant is in jail since 02.07.2019.

On 02.09.2024 the following order was passed:

"Shri Brij Bhushan Upadhyay, learned counsel for the applicant contends that the applicant is in jail since 02.07.2019. Not a single witness has been till date. The applicant has been cooperating in the trial proceedings and has never adopted dilatory tactics. The applicant is not responsible for the delay in the trial.

If the submissions of the learned counsel for the applicant are correct, the situation in the district judgeship, Allahabad seems to be alarming.

The learned District Judge, Allahabad shall look into the matter and examine the cause for what prima facie appears to be an utter failure of the learned trial court to discharge the duties of conducting the trial in an expeditious time frame as contemplated in Section 309 Cr.P.C. and also the inability of the learned trial judges to realize the fundamental rights of an accused to a speedy trial.

This Court is noticing that a large number of similar cases are being reported from the judgeship of Allahabad.

The learned District Judge, Allahabad shall also disclose the steps taken to sensitize the learned trial judges about expediting the trials in cases where the accused persons have been confined to jail for long periods of time and the trials are no where near conclusion.

Apart from this, this report shall be submitted by the learned District Judge, Allahabad and the learned trial court, Allahabad explaining the cause of the delay and the responsibility of the concerned persons/presiding officials for the said delay.

Needless to add, at this stage, the observations made above shall not be

construed as adverse to the concerned officials. The same shall be subject to the report sent by the learned trial judge to the learned District Judge, Allahabad.

Put up this matter on 09.09.2024 in the list of fresh cases.

In the meantime, learned District Judge, Allahabad as well as learned trial court, Allahabad shall forthwith send a report regarding the status of the trial and cause for the delay in concluding the trial in Special Sessions Trial No.179 of 2019, Case Crime No.670 of 2019 under Sections 302, 201, 377 I.P.C. and Section 5/6 of the POCSO Act, Police Station -Dhoomanganj, District-Prayagraj and also the following details in tabulated form:-

- (1) Dates on which chargesheet was filed and the charge was framed.
- (2) Number of prosecution witnesses in the chargesheet.
- (3) Number and particulars (i.e. name, nature of witness like eye witness and expert witness etc.) of prosecution witnesses proposed to be examined as per the charge sheet.
- (4) List of proposed prosecution witnesses/calendar submitted before the trial court for examination during the trial.
- (5) Names and number of prosecution witnesses who have been examined before the trial court with dates.
- (6) Names and number of witnesses who have been summoned but have not attended the trial proceedings on the appointed dates with dates.
- (7) Names and number of witnesses against whom coercive measures have been taken out with dates.

A copy of this order be communicated to the learned trial judge through the learned District Judge, Allahabad by the Registrar (Compliance) by e-mail."

On 17.09.2024 the following order was passed:

"The applicant is in jail since 02.07.2019.

The first bail application of the applicant has been filed on 20.07.2024 i.e. more than five years after the applicant was taken into custody. It is submitted that the applicant could not approach this Court at an earlier point in time due to financial penury and lack of access to legal aid.

The reply sent by the trial court regarding the delay in the trial is not satisfactory. The failure of the trial court to issue coercive measures to compel the appearance of witnesses after they had absented themselves in the trial proceedings despite issuance of summons on various dates has not been satisfactorily explained.

Learned District Judge shall appropriately counsel the trial court in this regard.

The District Legal Services Authority as well as the District Judge shall jointly send a report showing why the directions issued by this Court in Anil Gaur @ Sonu @ Sonu Tomar v. State of U.P. reported at 2022 SCC Online All 623 and Ramu vs. State of U.P. reported at 2024 SCC OnLine All 4618 have not been complied with and the applicant was not provided legal aid at a prior point in time.

Learned trial court shall also send a fresh status report on the next date of listing.

Put up this matter on 25.09.2024 at 10.00 AM in the list of fresh cases."

Today when the matter is taken up learned counsel for the applicant contends that till date not a single witness has been examined.

This Court would like to express its serious dissatisfaction at the pace of the trial. This Court is repeatedly finding that in district Allahabad the trials are moving at an inordinately slow pace and the courts seem to be unmindful of long periods of incarceration of the accused persons. There is prima facie disarray in the functioning of the judgeship. The District Judge, Allahabad should be alerted to the dismal state of affairs in the judgeship and take appropriate action as per law.

It is noteworthy that repeated orders have been passed by this Court in the past. But to no avail.

It is clarified that the above observations shall not be construed adversely against any judicial officer at this stage.

Learned District Judge, Allahabad shall send a fresh status report on the next date of listing and explain the cause for

the delay despite orders of this Court.

Put up this case on 03.10.2024 in the list of fresh cases.

A copy of this order be communicated to the learned District Judge, Allahabad by the Registrar General.

Order Date :- 25.9.2024

Dhananjai