

Court No. - 71

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33746 of 2020

Applicant :- Praveen Pal

Opposite Party :- State of U.P.

Counsel for Applicant :- Ravi Kumar Singh, Mohit Singh

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

Heard Sri Ravi Kumar Singh, learned counsel for the applicant and Sri Sanjay Kumar Singh, learned counsel for the State.

This is the second bail application on behalf of the applicant. The first bail application of the applicant was rejected by this Court vide order dated 6.2.2020 passed in Criminal Misc. Bail Application No.4779 of 2020. While rejecting the said bail application, this Court had expedited the trial and directed to conclude the same as expeditiously as possible, preferably within six months from the date of production of certified copy of the same. The said order was filed before the trial court on 3.3.2020.

Learned counsel for the applicant argued that the applicant is in jail since 23.04.2018 and the trial has not concluded. This Court vide order dated 27.10.2021 directed the District Judge, Meerut to send the report regarding the stage of trial and compliance of the order dated 06.02.2020 passed by this Court. The order passed on 27.10.2021 is quoted here-in-below:-

"Heard Sri Ravi Kumar Singh, learned counsel for the applicant and Sri Akhilesh Kumar Tripathi, learned counsel for the State.

This is the second bail application on behalf of the applicant. The first bail application of the applicant was rejected by this Court vide order dated 6.2.2020 passed in Criminal Misc. Bail Application No.4779 of 2020.

Learned counsel for the applicant argued that the order rejecting the first bail of the applicant was filed before the trial court on 3.3.2020 and even then the trial is pending and has not yet concluded. He has placed the certified copy of the order sheet which is annexed as annexure no.23 to the affidavit filed in support of bail application. The applicant is in jail since 23.04.2018.

Looking to the arguments of the learned counsel for the applicant, let a report from the District Judge, Meerut be called within three weeks from today regarding the stage of trial and compliance of the order dated 06.02.2020 passed by this Court.

The office to communicate this order to the concerned District Judge within a week from today.

Let the matter be listed in the week commencing 22.11.2021 along with report received from the District Judge, Meerut."

The report of the In-Charge Additional Sessions Judge/Special Judge, Special Court No.2 (Prevention of Corruption Act), Meerut dated 17.11.2021 is on record.

A perusal of the said report shows that the statement of P.W.1 Phool Chand Singh was recorded on 4.9.2019, statement of P.W.2 Umesh Chand was recorded on 15.11.2019, statement of P.W.3 and 4 Monu and Devendra Saini was recorded on 18.2.2020. Subsequently the certified copy of the order dated 6.2.2020 was filed before the trial court on 5.3.2020, after it, statement of P.W.5 S.I. Ajay Kumar was recorded on 18.3.2020, statement of P.W.6 Dr. Vinod Kumar Singh was recorded on 16.10.2020 and 8.1.2021, statement of P.W.7 Constable Clerk Rambir Singh was recorded on 4.11.2020, statement of P.W.8 Dr. Shashank Mishra was recorded on 21.12.2020 and statement of P.W.9 S.I. Sunir Kumar was recorded on 10.8.2021. The report of the Forensic Lab with regards to the examination of the alleged weapon of assault has not reached the Court and as such the same was summoned. The trial court sent a letter dated 7.9.2021 and subsequently a reminder dated 11.11.2021 to the Forensic Science Laboratory, Agra for summoning the said report and even stating to the Joint Director that if the said item has not reached it's number, it should be examined on priority and a report be sent immediately. The report of the concerned trial Judge states that except for the report of the Forensic Lab, trial is almost complete.

This situation is alarming.

The investigation concluded and charge sheet was submitted which appears to have been submitted without the report of the Forensic Lab. The charges were framed and the evidence of all the witnesses have been examined as is evident from the report dated 17.11.2021 of the Trial Judge sent by the In-Charge District Judge with his letter dated 17.11.2021. The delayed examination of material in the Forensic Lab appears to be a routine now. In spite of the order of this Court and also various orders of other Courts, the system has not improved and it appears that the same have no effect and there is no anxiety by anyone to improve the system. The present case is glaring example of it. The applicant is in jail since 23.04.2018. The only impediment in conclusion of trial as of now is non-receipt of the report of the Forensic Lab. The letter and it's reminder by the trial court to the Joint Director, Forensic Laboratory, Agra also appear to have been kept pending in a routine manner without any action on it. Even the minimum courtesy of reciprocating the said letter and its reminder was not resorted to by the concerned officer. An order/direction/request from a court is expected to be honoured.

This Court in Crl. Misc. Bail Application No.14403 of 2021 "Tahir Khan Vs. State of U.P." vide order dated 11.11.2021 wherein viscera was preserved and the report was not made available had shown it's displeasure in delayed examination of the same by the Forensic Lab and had directed the Director General of Police, U.P., Lucknow and the Secretary, Homes, Government of U.P., Lucknow to take up the issue at their end for it's expeditious examination to help the Investigating Agencies so that the same would not be an impediment

before the courts in deciding matters. It appears that in spite of the said order no system has been evolved and the matter is not being looked seriously by the concerned authorities. It is reiterated that the examination of material either by the Forensic Analyst or Chemical Analyst is an integral part of investigation which may provide a link regarding the cause of death or give a lead in the matter. The same is very relevant for the proper investigation and even for the courts judging the case in the trial. The charge-sheets are submitted without the reports of the Forensic Lab or Chemical Analyst, the investigation cannot be said to be completed without the report (s) of the experts to whom materials are sent for their opinion. As the prosecution relies on the said part of evidence also, it cannot be said that the investigation has concluded in spite of the reports not being received. A tendency has developed of filing of the said reports of the experts through a supplementary charge sheet at a much much later stage. In the meantime the accused suffers the rigorous of jail and explores the remedy available to him for bail and even as per the facts of the present case all the witnesses have been examined in the trial but the said report is still awaited in spite of a letter and it's reminder by the concerned trial court to a responsible officer of the laboratory for sending a report by examining the contents out of turn. This system cannot be given a knot. It has to be deprecated.

This Court apart from its inherent power has power of superintendence also. It cannot shut its eye to grave irregularities, when they are brought to its notice or even comes to its knowledge.

Looking to the facts of the matter as stated above, let personal affidavits be filed by the Director General of Police, U.P., Lucknow and the Secretary, Home, Government of U.P., Lucknow informing the Court as to what steps are being taken by them for expeditious examination of materials sent to the experts for analysis. The said affidavit be filed within three weeks from today.

The Director, Forensic Science Laboratory, Agra is directed to appear before this Court on the next date and explain as to why the letter dated 7.9.2021 and its reminder dated 11.11.2021 sent by the trial court has not been acted upon.

Let the matter be listed on 29.04.2022.

The Registrar General, High Court shall communicate this order to the concerned officers forthwith. Learned A.G.A. for the State shall also communicate it them for immediate compliance.

(Samit Gopal, J.)

Order Date :- 6.4.2022

Gaurav