

Court No. - 7

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14553 of 2022

Applicant :- Suraj Pasi

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Chandra Dwivedi, Ajay Kumar Pathak, Ashish Kumar Dubey, Praveen Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Shri Paritosh Kumar Malviya, learned AGA for the State submits that there are eye witnesses to the incident. He prays for and is granted time to file counter affidavit. The affidavit shall also bring all relevant facts including the evidences collected during the course of investigation in the record.

The report sent by the learned Additional Sessions Judge, Allahabad discloses that the trial could not proceed on a number of occasions as the counsels were on strike. The dates on which the trial was impeded on account of the strikes of the lawyers as recorded in the comments of the trial court are 16.02.2022, 26.03.2022 and 08.11.2022.

The courts in India have consistently set their face against lawyers striking actions. Often accused persons are in jail, and the trial is hampered because of strike actions by lawyers. Striking actions of lawyers not only interfere with the administration of justice but also in such cases cause fragrant violation of the fundamental rights of accused persons-prisoners' right to speedy

trial. The comments contain irrefutable evidence that the process of the court was impeded by lawyers abstaining from work on account of strike calls. Counsels cannot hold the judicial process to ransom by irresponsibly going on strike and bringing the work in the court to a stand still. Such conduct of the lawyers is in the teeth of law laid down by the Supreme Court in *Ex. Capt. Harish Uppal Vs. Union of India* and another reported at (2003) 2 SCC 45 as well as in *Krishnakant Tamrakar Vs. State of Madhya Pradesh*, reported at AIR 2018 SC 3635.

The process of law has to run its course unimpeded by any such obstructions. The courts have to pass appropriate orders in accordance with law even when the parties or counsels are not cooperating with the trial proceedings. The court proceedings cannot come to a stand still owing to striking lawyers and lethargic litigants.

From the comments of the learned Additional Sessions Judge, Allahabad, it appears that the strike actions were not a one of (even such actions cannot be condoned), but seems to be a regular feature of the concerned court.

The Chairman, Bar Council of Uttar Pradesh shall appear in person on the next date of listing and explain the steps which are proposed to be taken by the Bar Council of Uttar Pradesh to prevent such occurrences in

future and action to be taken in this case.

Learned trial Judge, Allahabad shall forward the names of the concerned office bearers of Bar Association who had called and enforced the strikes and prevented the counsels as well as the courts from discharging their judicial work.

Learned trial Judge, Allahabad shall also indicate that upon due enquiry with the jail authorities as to why the accused persons who were in prison were not produced before the learned trial court on the appointed date.

The learned trial judge shall also give the following details:

A. Names of the accused persons with the respective dates on which they were arrested.

B. Dates on which the accused persons were produced together in the court.

C. Causes for failure to produce the accused persons in court together after they had been arrested, and the action taken by the trial court for such failure of the authorities.

Put up this case on 20.12.2022 in the list of fresh cases.

A copy of this order be communicated to the learned District Judge, Allahabad as well as Chairman, Bar Council of Uttar Pradesh by the Registrar (Compliance)

by FAX.

Order Date :- 23.11.2022
Dhananjai