

**Court No. - 66**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 29718 of 2023

**Applicant :-** Nasir Alam

**Opposite Party :-** State Of U.P. . And Another

**Counsel for Applicant :-** Sunil Kumar Srivastava

**Counsel for Opposite Party :-** Ashish Pandey,G.A.

**Hon'ble Ajay Bhanot,J.**

By means of the second bail application the applicant has prayed to be enlarged on bail in Case Crime No.468 of 2022 at Police Station-Naubasta, District-Kanpur Nagar under Section 8/18 of the NDPS Act. The applicant is in jail since 10.06.2022.

The first bail application of the applicant was rejected by this Court on 02.01.2023.

The following arguments made by Shri Sunil Kumar Srivastava, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Paritosh Kumar Malviya, learned A.G.A.-I from the record, entitle the applicant for grant of bail:

1. The applicant is a law abiding citizen and had always cooperated with the investigations and joined the trial.
2. The prosecution witnesses are not cooperating with the trial proceedings and are responsible for the delay in conclusion of the trial.
3. The trial is moving at a snail's pace and and shows no sign of early conclusion. The applicant cannot be faulted for the delay in the trial.

4. Inordinate delay in concluding trial has lead to virtually an indefinite imprisonment of the applicant.

5. The applicant does not have any criminal history apart from this case.

6. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to cooperate with the court proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In this wake without making any observations on the merits of the case I am of the view that the applicant is entitled to be enlarged on **interim bail**.

Let the applicant-**Nasir Alam** be released on **interim bail** in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Before parting this Court would like to address an issue which arisen squarely in this case. The status report sent by the learned trial court that the witnesses have not been responded to summons and the NBW has been issued against two prosecution witnesses. This case yet again highlights the recurring problem faced by the

courts in enforcing the presence of witnesses.

Shri Paritosh Kumar Malviya, learned A.G.A.-I contends that it is evident that the delay in the trial due to non appearance of witnesses is a major bottleneck in the criminal trials in the State.

Similar issues have already been raised before this Court in various bail applications. Connect with Criminal Misc. Bail Application No. 27375 of 2023 (Mandan Lal Harijan Vs. State of U.P.), Criminal Misc. Bail Application No.29718 of 2023 (Nasir Alam v. State of U.P.), Criminal Misc. Bail Application No.20644 of 2023 (Sunil Nishad v. State of U.P.) and Criminal Misc. Bail Application No.16871 of 2023 (Bhanwar Singh @ Karamvir v. State of U.P.).

Judgment reserved on the issue of responsibility of police authorities to serve summons and execute coercive measures taken out by the Court in a timely manner.

**Order Date :- 19.7.2023**

Ashish Tripathi