

Court No. - 67

Case :- APPLICATION U/S 482 No. - 10528 of 2020

Applicant :- Bittu

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Sanjay Kr. Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.

By means of the present application, the prayer sought by the applicant is to quash the impugned order dated 04.12.2019 and 29.01.2020 issuing non-bailable warrant against the applicant in case no.2476/9 of 2014 (State vs. Shibbu and others) in case crime no.157 of 2013 under sections 457, 380, 311 IPC, Police Station-Daurala, District-Meerut pending in the court of learned Addl. Civil Judge, Senior Division, Court No.7/Addl. Chief Judicial Magistrate, Meerut.

It is contended by learned counsel for the applicant that the applicant was earlier bailed out but after submission of the charge sheet, he has got no knowledge of the same, consequently, non-bailable warrant was issued against him. It is submitted by learned counsel for the applicant that the applicant is ready to appear before the court.

Considering the entire facts and circumstances of the case and the arguments advanced, this Court is of the opinion that in the fitness of circumstances, this application stands **disposed of** with the direction that the court below would extend the benefit of interim bail (if the court concerned deems it fit according to the merit of each case) as contemplated in the law laid down by this Court in the case of **Amrawati and another Vs. State of U.P.** reported in **2004 (57) ALR 290** as well as judgement passed by Hon'ble Apex Court reported in **2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P.** after the applicant surrenders within 45 days before the court and if his bail application is filed, the same shall be adjudicated and decided by the courts below with speaking and reasoned order, strictly in accordance with law, in the light of the judgment given by Hon'ble Apex Court in the case of **Hussain and another Vs. Union of India** reported in **(2017) 5 SCC Page-702**, relevant extract of which reads as under :-

".....Judicial service as well as legal service are not like any other services. They are missions for serving the society. The mission is not achieved if the litigant who is waiting in the queue does not get his turn for a long time"..... "Decision of cases of under-trials in custody is one of the priority areas. There are obstructions at every level in enforcement of right of speedy trial; vested interests or unscrupulous elements try to delay the proceedings"..... "In spite of all odds, determined efforts are required at every level for success of the mission"..... "The Presiding Officer of a court cannot rest in a state of helplessness. This is the constitutional responsibility of the State to provide necessary

infrastructure and of the High Courts to monitor the functioning of subordinate courts to ensure timely disposal of cases."

To satiate speedy disposal of the cases, the courts below are issued following directions in accordance with the observations made in the case of **Hussain and another (Supra)**:

(i) Bail applications be disposed of normally within one week :

(ii) Magisterial trials, where accused are in custody, be normally concluded within six months and sessions trials where accused are in custody be normally concluded within two years.

(iii).....;

(iv)....."

The above timelines may be the touchstone for assessment of judicial performance in annual confidential reports.

For the period of 45 days from today, no coercive action shall be taken against the applicant in the aforementioned case.

It is made clear that no time extension application would be entertained for extending the period of 45 days.

The ratio mentioned above is the last word for every judicial officers for abiding with the directions of the Hon'ble Apex Court. In the aforesaid scenario, it would be pertinent to refer the case of **Brahm Singh and others Vs. State of U.P. and others** decided on 08.07.2016 in Criminal Misc. Writ Petition No.15609 of 2016 whereby co-ordinate Bench of this Court, while taking into account the concerns of most of the counsels with regard to the long pending bail applications at lower courts' stage has expressed their anguish and concern.

In the aforesaid backdrop, learned Sessions Judge/the concerned Trial Judge is directed to ensure that the guidelines given in the case of **Hussain and another (supra)** as well as in **Brahm Singh and others(Supra)** has to be carried out in its letter and spirit, failing which an adverse inference would be drawn against the erring officers and this Court would be compelled to take appropriate action against them, if found that there is laxity in adhering the above directions.

In the event, the bail application is not decided within seven days as contemplated above, the learned Judge will have to spell out the justifiable reasons and record the same on the order sheet of such cases.

With the aforesaid observations, the present application under Section 482 Cr.P.C. stands disposed of.

Order Date :- 1.9.2020

Sumit S