

Reserved on: 05.10.2023
Delivered on: 12.10.2023
Neutral Citation No. - 2023:AHC:197028

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31514 of 2023

Applicant :- Pramod Kumar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Amarnath Tiwari, Ramendra Nath Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The present bail application has been filed by the applicant in Case Crime No. 0003 of 2023, under Section 7 Prevention of Corruption Act (hereinafter referred to as P.C. Act), Police Station-Agra Sector (Satarkata Adhiniyam), District-Agra, with the prayer to enlarge him on bail.
3. It has been argued by the learned counsel for the applicant that applicant is innocent and he has been falsely implicated in this case. The allegations levelled against the applicant in the first information report, are wholly false. The applicant has never demanded bribe of Rs. 50,000/- from the *de facto* complainant nor he has accepted any illegal gratification. There is no independent witness of the alleged incident of trapping of the applicant. Learned counsel submitted that as per prosecution version, on 27.04.2023, the *de facto* complainant Pradeep Kumar Yadav has come to the Vigilance Office and stated that the applicant/accused Promod Kumar Singh is engaged in some official work and he may not come to the alleged place, hence, the District Magistrate was requested to arrange two witnesses for 09.05.2023, 10.05.2023 and 11.05.2023 to become part of the trapping team and District Magistrate was again requested to provide two witnesses on 16.05.2023. As per prosecution version, no trap could be conducted on account of engagement of accused in official work and the S.P. Vigilance, fixed dates 17.05.2023, 18.05.2023 and 19.05.2023 for completing the process of trapping. Learned counsel submitted that these facts clearly

indicate that the applicant did not demand any illegal gratification and he was falsely implicated in this case. The prosecution story regarding alleged trap is absolutely false and concocted. In fact, the *de facto* complainant Pradeep Kumar Yadav, who is an Assistant Teacher, has formed a gang of some teachers and anti-social elements and he is engaged in pressurizing other teachers and staff of Primary and Junior High Schools to pay a part of money from their salary and if any one objects, such person was subjected to false implications and due to these reasons, earlier two Block Education Officers have managed their transfer to different districts in order to save their respect and honour. Earlier, the *de facto* complainant has made a similar complaint against one Amaresh Kumar, the then Block Education Officer, Barauli Ahir. The total arrears of applicant, pertaining to the period of his suspension, have already been paid in the year 2021, when the applicant/accused was not even posted there. One Shri V.K. Singh, the then Block Education Officer, Barauli Ahir, who paid his arrears, got himself transferred from there.

4. Learned counsel submitted that neither any bill was submitted before the applicant/accused nor he was required to pay any arrears, as in view of the Government order No. 2352/79-5-2012(26)/2012 Shiksha Anubhag-5, Lucknow dated 23.07.2012, the power of Block Education Officer for forwarding bills, was recalled by the said Government order dated 23.07.2022 all the bills were to be prepared by office of Finance and Account Officer, who has to sanction and to dealt with the same for payment. Thus, from circular dated 23.7.2022, it is clear that bills and arrears of teachers and staffs, working in Primary Schools and Junior High Schools, were to be paid and dealt with by the office of Finance and Account Officer of the respective district. Earlier, one Mohammad Arif, an Assistant Teacher in Primary School, has lodged a first information report against the *de facto* complainant and some other persons alleging that they have attacked him.

5. Learned counsel further submitted that after alleged recovery, no copy of recovery memo was given to the applicant/accused. Referring to the copy of

recovery memo, it was submitted that in the end of the recovery memo, an endorsement was made subsequently that a copy of recovery memo was given to the applicant/accused but he refused to make the signature of receipt, whereas, in the first information report, the said endorsement is not incorporated. There is no credible evidence that the applicant has made any demand of illegal gratification from the *de facto* complainant and in fact, there was no occasion to make any such demand as neither any bill of the complainant was submitted before him nor he was empowered to sanction or pass any order on the bill of the *de facto* complainant. In this connection, learned counsel has placed reliance upon the case of ***Jagtar Singh Vs. State of Punjab 2023 LiveLaw (SC) 232*** and ***B Jayaraj Vs. State of A P 2014 LawSuit (SC) 217***. Criminal history of one case, shown against the applicant has duly been explained. Learned counsel submitted that the applicant is a gazetted officer and the allegations levelled against the applicant, are wholly false and there is no credible evidence against him. Lastly, it was submitted that the applicant is languishing in jail since 19.05.2023 and that in case he is released on bail, he will not misuse the liberty of bail and will co-operate in trial.

6. Learned A.G.A. has opposed the application and submitted that earlier, the *de facto* complainant was suspended but later on his suspension was revoked by District Education Officer on 08.02.2021 but the Basic Shiksha Adhikari has not paid the arrears of his salary for the period of suspension. The complainant has submitted an application for payment of arrears and that the applicant, who was working as Block Education Officer/Assistant Basic Shiksha Adhikari, was demanding bribe of Rs. 50,000/- for release of his arrears and that on the complaint of *de facto* complainant Pradeep Kumar Yadav, a trap team was constituted and applicant/accused was apprehended, while he has accepted an amount of Rs. 50,000/- from the *de facto* complainant. Learned A.G.A. submitted that the applicant/accused was holding post of A.B.S.A. at the relevant time and that when the application of arrears was submitted, the same has to be dealt with and considered by the applicant. The *de facto* complainant has given several applications to the applicant regarding release of arrears. The alleged incident of acceptance of

illegal gratification and recovery of bribe amount is supported by two independent witnesses. Referring to facts of the matter, it was submitted that there is sufficient evidence against the applicant and that he is not entitled for bail.

7. I have considered the rival submissions and perused the record.

8. The allegation against the applicant is that the applicant, being Block Education Officer/Assistant Basic Shiksha Adhikari, was demanding bribe of Rs. 50,000/- from the *de facto* complainant Pradeep Kumar Yadav for release of his arrears of salary pertaining to the period of his suspension. As per prosecution version, on 18.05.2023 a trap team was constituted, which included two independent witnesses, provided by the District Magistrate, and they reached at the office of Block Education Officer and the complainant has handed over an envelop containing Rs. 50,000/- to the applicant and at the same time, he was apprehended by the officials of the trap team and the envelop containing Rs. 50,000/-, was recovered from his possession. In case of **Jagtar Singh Vs. State of Punjab** (supra), it was held under Section 7 of P.C. Act in order to bring home the offence, demand of illegal gratification by a public servant is necessary. Similarly, in case of **B Jayaraj Vs. State of A P** (supra), it was held that demand of illegal gratification is *sine qua non* to constitute the offence under Section 7 P.C. Act and mere recovery of currency notes, cannot constitute the offence under Section 7 P.C. Act, unless it is proved that accused voluntarily accepted the money knowing it to be a bribe. In the instant matter, the *de facto* complainant has clearly stated that the applicant/accused was demanding bribe of Rs. 50,000/- for release of his arrears of salary. On the complaint of the *de facto* complainant made to Anti Corruption Establishment, the said allegations were verified. Thereafter, the applicant was apprehended by the trap team, while he has accepted an amount of Rs. 50,000/- from the *de facto* complainant. The alleged incident is supported by two independent witnesses.

9. Considering the submissions of learned counsel for the parties, nature of accusations, gravity of offence, quantum of illegal gratification involved in

the matter and all attending facts and circumstances of case, the applicant is not entitled to be enlarged on bail. Hence, the bail application of applicant- **Pramod Kumar Singh** is hereby **rejected**.

10. However, in case no substantive progress is made in the trial of the case within a period of 6 months, the applicant would be at liberty to file a fresh application for bail in accordance with law.

Order Date :- 12.10.2023

Suraj/Anand