

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35889 of 2023

Applicant :- Gagan Kumar Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Aditya Prasad Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Counter affidavit filed by learned A.G.A and rejoinder affidavit filed by learned counsel for the applicant, the same are taken on record.
2. Heard learned counsel for the applicant-accused, learned A.G.A for the State and perused the record.
3. The present bail application has been filed by the applicant-accused involved in Case Crime no. 561 of 2021, under Section 7 of Prevention of Corruption Act, Police Station Tajganj, District Agra with the prayer to enlarge him on bail.
4. It has been argued by learned counsel for the applicant-accused that applicant-accused is innocent and he has been falsely implicated in this case. The applicant was working as Junior Engineer in Electricity Department. The allegation that applicant has made a demand of illegal gratification from the de-facto complainant for reducing the electricity charges after raid, is wholly false. Similarly the case of prosecution that applicant was apprehended while he accepted an amount of Rs.25,000/- from the de-facto complainant, is also false. Learned counsel submitted that in fact earlier the applicant has lodged a first information report against one Pradeep Kumar on 18.07.2020 regarding theft of

electricity and said Pradeep Kumar is cousin of the de-facto complainant. Similarly, on 14.08.2021 on the complaint of applicant-accused, a first information report was lodged against the de-facto complainant regarding theft of electricity. The applicant-accused has been falsely implicated due to those cases. It was submitted that the de-facto complainant, who is working as Lekhpal, has connived with higher officials and a false incident of trap was shown. It is further submitted that during covid-19 period applicant-accused was granted parole for 60 days and that after expiry of the same, the applicant availed his legal remedies and also filed an application for anticipatory bail, which was dismissed by this Court as there was no coercive process against the applicant. It was stated that applicant has no knowledge about the issuance of nonailable warrants by the trial court, hence, he could not appear before the court concerned. Lastly, it was submitted that applicant-accused is languishing in jail since 31.07.2023, having no criminal history and that no charges have been framed so far. It was submitted that in case, the applicant-accused is released on bail, he will not misuse the liberty of bail and co-operate in the trial.

5. Learned A.G.A. has opposed the prayer for bail and argued that applicant while working as Junior Engineer in Electricity Department, has made a demand of Rs.1,00,000/- from the de-facto complainant for reducing the electricity charges assessed against electricity connection and later on he was apprehended red handed while he has accepted an amount of Rs.25,000/- from the de-facto complainant. It was also submitted that during covid-19 period, applicant was granted parole of 60 days but thereafter, he absconded and did not surrender before the court concerned. The applicant has approached this court by filing an application under

Section 482 Cr.P.C. No.40327 of 2022, which was dismissed by this court vide order dated 21.02.2023 and the applicant was provided liberty to surrender before the trial court and to apply for bail but the applicant did not surrender. The trial court has repeatedly issued non-bailable warrants against the applicant but he did not appear and after several months applicant has surrendered before the trial court.

6. Considering the submissions of learned counsel for the parties, conduct of applicant that after release on parole for 60 days, he did not surrender before the Trial Court and even after order of this court in application under Section 482 Cr.P.C., the applicant did not surrender, and all attending facts and circumstances of the case, at this stage, the applicant-accused is not entitled to be enlarged on bail. Hence, the bail application of applicant-accused is hereby **rejected**.

Order Date :- 2.12.2023

Neeraj