

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44141 of 2023

Applicant :- Praveen Shahi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sapan Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

The present bail application has been filed on behalf of applicant Special Case No 1779/2022 arising out of Case Crime No. 329 of 2022, under Section 7/13 of Prevention of Corruption Act, 1988, Police Station Cantt, District Gorakhpur with the prayer to enlarge the applicant on bail.

The prosecution case as per the F.I.R is that Vikas Kumar Yadav, Nayab Tehsildar, Tehsil Sadar, Gorakhpur on the direction given by J.M/S.D.M, Sadar, Gorakhpur lodged F.I.R on the basis of complaint made by public, sting operation was conducted against the appellant, it is found that appellant was asking for bribe for demarcation of the land and has received Rs. 16,000/- as bribe and also asking to pay remaining amount on the next day. The conduct of the appellant is proved by the video which is saved in a pen drive.

Learned counsel for the applicant has submitted that appellant is innocent and has been falsely implicated in this case. He further submitted that name of any person is not disclosed in the F.I.R who made complaint against the appellant and whose field was to be demarcated by him even the number of Araj is not mentioned, it is not mentioned that who prepared the video in which it is shown that applicant was receiving bribe in the entire case diary. The statement of such person is not recorded under Section 161 Cr.P.C by the Investigating Officer, no money has been recovered from the possession of the applicant and the applicant was not arrested at the spot. As per procedure, when land is to be demarcated a team of Lekhpal is required to be constituted by the order of the S.D.M and the land is demarcated under the supervision of the

Revenue Inspector, therefore, the applicant has no occasion to asked for bribe. It is also submitted that in the entire case diary there is no recital of the proceedings that the video has been sent for F.S.L examination by the Investigating Officer while the charge sheet has been submitted against the applicant. It is also submitted that witnesses Shashi Bhushan Vishwakarma, Sailash Kumar Vishwakarma have stated in their statement that they did not remember the place where the video was made and the other person who was also making video are not known to them. Appellant is languishing in jail since 25.09.2023 having no criminal history. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, learned A.G.A. has supported the order passed by the Sessions court and vehemently opposed the prayer for grant of bail to the appellant and submitted that applicant has received Rs. 16,000/- as bribe for demarcating the land but could not dispute the aspect that there is no mention of the land number, Aarji number, time, place and date of such incident and no recovery of any amount from the possession of the applicant.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant **Praveen Shahi** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

Order Date :- 17.10.2023

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