

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10451 of 2023

Applicant :- Manilal Patidar

Opposite Party :- State Of U.P Thru. Prin. Secy. Home Deptt. Civil Sectr. Lko.

Counsel for Applicant :- Purnendu Chakravarty, Shivanshu Goswami

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

1. Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.
2. The accused- applicant is involved in Case Crime No. 0505 of 2020, under Sections 384 IPC, and Section 7 of the Prevention of Corruption Act, 1988, Police Station Kotwali Nagar, District- Mahoba.
3. It is argued by learned counsel for applicant that the applicant is the then S.P. It is alleged in the FIR that the company of the first informant was involved in transporting the stones. They were having all valid documents but even then their vehicles were being stopped at the Police Chowki. They were being wrongly challaned and FIRs on false allegations were also being registered against the owner of the vehicles. The Project Manager of the Company Shri Amit Tiwari is also said to have called telephonically by the applicant through constable Raj Kumar to his house. When the Project Manager Amit Tiwari met the then S.P., (the present applicant) he was allegedly demanded Rs.2,00,000/- per month and it was said that only after this payment the vehicles would not be challaned and no FIR would be lodged and if amount is not paid by him even in condition of the correct papers and even if the vehicles were

found under-load, the vehicles would be continuously challaned. The police had many ways to challan the vehicles. The amount was not paid by the owner of the vehicles, and this present FIR was lodged by the applicant.

4. It is further argued by learned counsel for the applicant that the first informant is the 'Khanan Mafia' and because of his illegal activities, his vehicles are often challaned under the Mines and Minerals Act and FIRs are also lodged. Hence, this FIR has been lodged on the false ground. It is submitted that Project Manager Amit Tiwari is said to have directly talked with the present applicant at his residence, but from the FIR, which was lodged under Section 13 of the Prevention of Corruption Act, 1988 also section 13 has been dropped out and now charge-sheet has been filed under Section 7 of the Prevention of Corruption Act, 1988 and under Section 384 IPC only. Under Section 384 IPC the maximum sentence is three years imprisonment while under Section 7 of the Prevention of Corruption Act, 1988 the maximum sentence is seven years. Admittedly there is no acceptance of any illegal gratification. The applicant neither demanded any amount nor he ever met the Project Manager Amit Tiwari. The police officials of police station concerned were doing their own work as per law. Just of being annoyed by the challans and the FIRs, which are done/lodged on the correct facts, this false FIR has been lodged by the first informant. Regarding criminal history of two cases, it is submitted that in Case Crime No. 2 of 2022 under Sections 166, 166A, 167 & 120-B IPC and Section 7 of the Prevention of Corruption Act, Police Station Kanpur Sector, U.P. Vigilance Kanpur, the applicant is on bail. Regarding Case Crime No. 234 of 2020, under Sections 306, 387, 120-B, 504 & 506 IPC, and Section 7, 7-A, 8, 12 and Section 13 of the Prevention of Corruption Act, 1988, charge sheet has been filed and the bail

application of the applicant has been rejected by the trial court. Now they are preparing to move the bail application before this Court.

The applicant is said to be languishing in jail since 16.10.2022. Hence the prayer for bail is made.

5. Learned A.G.A. opposed the prayer for bail of the applicant and submitted that the first informant had got licence under the Mines and Minerals Act and after that the Pandemic Covid-19 started. The first informant had 86 vehicles. As per FIR it was Constable Raj Kumar, who telephonically called the first informant to have conversation with the then S.P. (the present applicant). The C.D. in this regard has been prepared. Hence the prayer for bail is prayed to be rejected.

6. Perusal of the record shows that the graver section Section 13 of the Prevention of Corruption Act was dropped against the applicant during investigation and now the applicant has been charge sheeted under Section 384 IPC and Section 7 of the Prevention of Corruption Act, 1988. Admittedly, there is no allegation of payment of any illegal gratification or the acceptance of the same. Regarding CDR the evidence could be seen at the time of trial. The basis of the allegation of the prosecution is the oral and direct conversation between the Project Manager Amit Tiwari and the applicant the then S.P. that conversation shall certainly be looked into at the time of the recording the evidence and arguments. It is the defence version that as the first informant is having 86 vehicles running on the road and he is a Khanan Mafia and as his wrong acts and illegal mining were checked by the police then being annoyed the applicant has been falsely implicated. The applicant is languishing in jail since 16.10.2022.

7. Perusing the record, considering the facts and circumstances

of the case, the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a case of bail.

8. The bail application is allowed.

9. Let the applicant Manilal Patidar, who is involved in aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the dates fixed after release.

2. He will not tamper with the witnesses.

3. He will not indulge in any illegal activities during the bail period.

10. The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the trial court shall be at liberty to cancel the bail and send the applicant to the prison.

11. It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 8.12.2023

Virendra