

Ajay Kumar vs State Of U.P. on 1 April, 2025

Author: Samit Gopal

Bench: Samit Gopal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44489

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34555 of 2024

Applicant :- Ajay Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ayush Mishra, Narendra Kumar Bhadana, Pavan Kumar, Prabha Shanker

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Prabhashankar Mishra and Sri Pawan Kumar, learned counsels for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. This is a second bail application. The first bail application of the applicant was rejected by this Court vide an order dated 10.06.2024 passed in Criminal Misc. Bail Application No. 19544 of 2024 (Ajay Kumar Vs. State of U.P.).
4. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Ajay Kumar, seeking enlargement on bail during trial in connection with Case Crime No.

62 of 2024, under Section 7 of the Prevention of Corruption Act, 1988 amended in 2018, I.P.C., Police Station Nai Mandi, District Muzaffarnagar.

5. The first information report of the present matter was lodged on 19.02.2024.

6. The argument as advanced by learned counsels for the applicant while placing Paragraphs No. 5, 6 & 7 of the supplementary affidavit dated 17.11.2024 is that no sanction was obtained prior to the lodgement of the present case and as such the entire proceedings including the trap proceeding are illegal. It is submitted that the guidelines laid down by the Apex Court in the case of Anil Kumar Vs. M.K. Aiyappa, Criminal Appeal Nos. 1590-1591 of 2013 have not been complied with and followed with regards to the same and thus the applicant deserves to be released on bail. It is further submitted that the applicant has no criminal history as stated in Paragraph No. 24 of the affidavit and is in jail since 19.02.2024.

7. Per contra, learned counsel for the State vehemently opposed the prayer for bail and argument of learned counsels for the applicant and submitted that the judgement of the Apex Court in the case of Anil Kumar (Supra) is being wrongly relied and interpreted in the present matter. It is submitted that in so far as sanction is concerned, the Act itself clarifies that sanction prior to cognizance is needed. It is submitted that the present case is a case of trap after complaint was made and pre trap proceedings were conducted, subsequent to which trap was laid and bribe money was recovered from the applicant. It is submitted that the first bail application of the applicant has been rejected by this Court vide a speaking order on merits vide an order dated 10.06.2024. It is submitted that there is no fresh and new ground in the present bail application, and the same be rejected.

8. After having heard learned counsel for the parties and perusing the record, it is evident that the first bail application of the applicant has been rejected vide an order dated 10.06.2024 by this Court, the said order reads as under:-

"1 List revised.

2. Heard Sri Pavan Kumar, learned counsel for the applicant, Sri Birendra Pratap Singh, learned A.G.A. for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Ajay Kumar, seeking enlargement on bail during trial in connection with Case Crime No. 62 of 2024, under Section 7 Prevention of Corruption Act, 1988 amended in 2018, P.S. - Nai Mandi, District Muzaffarnagar.

4. As per prosecution case on a complaint dated 15.2.2024 of Priyavrat Tomar the original complainant, a First Information Report was lodged on 19.2.2024 at 19:20 hours by Shyam Singh Peelwan, Inspector, Anti-Corruption Department, alleging therein that S.S. Associates is a firm of the original complainant and registered as D-category contractor in the office of Executive Engineer, Construction Division-I, P.W.D., District Muzaffarnagar. He complied the formalities of agreement after being

awarded five contracts and submitted the same within a week in the office, after which some of the agreements were signed but some were not signed. On 15.2.2024 when he went to make inquiry about his work, he was told to meet Executive Engineer Neeraj Singh. When he met him he was told that he has been allowed the work worth Rs.34 lakhs and commission of Rs.1,35,000/- at the rate of 4 per cent was demanded from him. Later on the amount was negotiated to Rs.1 lakh which was told by co-accused Neeraj Singh to be given to Ajay Kumar the applicant. The original complainant made a complaint about it on which an inquiry was made and then pre-trap proceedings were done and a trap was laid wherein the applicant was apprehended accepting Rs.1 lakh as cash. The proceedings were completed and then the present F.I.R. has been lodged.

5. Learned counsel for the applicant submitted that there is nothing on record to show that the applicant ever demanded any bribe money. It is submitted that the applicant only acted on the instructions of the co-accused Neeraj Singh, Executive Engineer and received the said money after which he was apprehended. It is submitted that the co-accused Neeraj Singh has been granted bail vide order dated 30.4.2024 passed by a co-ordinate Bench of this Court in Criminal Misc. Bail Application No. 15922 of 2024, copy of the said order has been annexed as annexure no. 8 (page-214-216) of the affidavit in support of bail application. It is submitted that the applicant is having no criminal history as stated in para-24 of the affidavit and is in jail since 19.2.2024.

6. Per contra, learned AGA opposed the prayer for bail and submitted that the applicant was posted as cashier/senior assistant in the office of Executive Engineer. It is submitted that the applicant was apprehended by a trap team accepting Rs.1 lakh as bribe. There is recovery of the said amount. The money as recovered is alleged to be the money of commission for awarding contracts and completing formalities. It is submitted that there is no illegality or irregularity in the said trap proceedings. It is submitted that the bail application of the applicant be thus rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is a government servant posted as cashier/senior assistant in the office of Executive Engineer, Construction Division-I, P.W.D., District Muzaffarnagar. The applicant was apprehended accepting Rs.1 lakh as cash in trap proceedings. There is nothing on record to show that trap proceedings are having any irregularity or illegality in it. In so far as the case of the applicant that he was complying with the directions of senior officer is concerned, the same cannot be considered to be an act in a legal manner even while following the directions of senior officers for accepting bribe money.

8. Looking into the facts and circumstances of the case as well as nature and gravity of the offence, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, rejected."

9. In so far as the argument with regards to the taking of sanction prior to initiation of the present case is concerned and having placed reliance on the judgment of the Apex Court is concerned, the facts of the present matter with the facts of the matter relied upon of the Apex Court are totally in contrast. The present case relates to complaint, enquiry, prior to trap and then proceeding for trap in which the bribe money was recovered.

10. No such grounds exists to entertain the present bail application as there is no fresh and new ground, the same is thus rejected.

11. Pending application (s), if any, shall stand disposed of.

Order Date :- 1.4.2025 VS (Samit Gopal, J)