

Lakhan Singh vs State Of U.P. Thru. Prin. Secy. Deptt. ... on 1 May, 2025

Author: Manish Mathur

Bench: Manish Mathur

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Neutral Citation No. - 2025:AHC-LK0:25173

Court No. - 13

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7789 of 2024

Applicant :- Lakhan Singh

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

Counsel for Applicant :- Mohammad Irfan Siddiqui, Brijesh Kumar Kuldeep

Counsel for Opposite Party :- G.A., Chandra Shekhar Agnihotri

Hon'ble Manish Mathur, J.

1. Heard learned counsel for applicant, learned A.G.A. for the State, learned counsel for informant/complainant and perused the record.
2. Supplementary affidavit filed today on behalf of the applicant is taken on record.
3. This first bail application has been filed with regard to FIR/ Case Crime No.0149 of 2024 under Sections 406, 420, 467, 468, 471, 504, 506, 120-B of IPC, Police Station Krishna Nagar, District Lucknow.

4. As per contents of FIR, the allegation levelled is that the applicant being Secretary of the society concerned had received an amount of Rs.65,000/- on 11.04.2012 for allotment of Plot No.555Ga/A-186 for which possession was also handed over to the informant, who subsequently obtained knowledge that the plot in question in fact was allotted to another person, who had subsequently executed a registered sale deed in 2013 in favour of other persons.

5. It has been submitted by learned counsel for the applicant that the applicant has been falsely implicated in the charges levelled against him. He has drawn attention to the order/ receipt dated 11.04.2012 to submit that in fact Rs.65,000/- were received from the informant towards part payment of purchase of Plot No.26 and not Plot No.555Ga/A-186. It is, therefore, submitted that the allegation levelled against the applicant, prima facie, fails since the aforesaid receipt has not been denied. It is submitted that the applicant being of advanced age is under incarceration since 06.04.2024 with previous criminal history being explained.

6. Learned A.G.A. as well as learned counsel for informant has opposed the bail applicant with the submission that not only the contents of FIR but the registered sale deed executed in the year 2013 clearly indicates forgery and cheating having been committed by applicant by misleading the informant.

7. Learned A.G.A., on the basis of instructions, also submits that allotment letter was, however, subsequently issued to the informant with regard to Plot No.555Ga/A-186 and not Plot No.26. He has, however, admits that previous criminal history of applicant has been explained.

8. Hon'ble the Supreme Court in Sanjay Chandra v. Central Bureau of Investigation, reported in (2012) 1 SCC 40 has specifically held that bail is to be a norm and an under-trial is not required to be in jail for ever pending trial. Relevant paragraphs of the judgment are as under :-

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

"27. This Court, time and again, has stated that bail is the rule and committal to jail an exception. It has also observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution."

9. Upon consideration of submissions advanced by learned counsel for parties, prima facie, subject to evidence being led in trial, at this stage it appears that the allegations as levelled against the applicant are at variance with the receipt dated 11.04.2012 issued in favour of informant with the plot number being different from the one indicated in the FIR. The evidentiary value and the aforesaid receipt would, however, be subject matter of evidence during the course of trial. Prima

facie, the contradiction is apparent on the face of record. Applicant is of advanced age under incarceration since 06.04.2024 with previous criminal history being explained.

10. Considering the submissions of learned counsel for the parties, nature of accusation and severity of punishment in case of conviction, nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment and considering larger mandate of the Article 21 of the Constitution of India and, without expressing any view on the merits of the case, I find it to be a fit case of bail.

11. Accordingly bail application is allowed.

12. Let applicant- Lakhan Singh involved in the aforesaid case 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 with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court, absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Order Date :- 1.5.2025 Mohd. Sharif