



2026:AHC:67270

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 6707 of 2026

Sub- Inspector Lalbahadur Prasad

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Raghuvansh Misra
Counsel for Opposite Party(s)	:	G.A.

Court No. - 73

HON'BLE VIKRAM D. CHAUHAN, J.

1. Heard Sri Raghuvansh Misra, learned counsel for the applicant and learned A.G.A. for the State and perused the record.

2. Learned counsel for the applicant submits that applicant is prosecuted under Section 7 of Prevention of Corruption Act, 1988. Learned counsel for applicant further submits that as per the prosecution case the allegation is that applicant has demanded Rs.5000/- for submitting a report in respect of an FIR lodged by complainant. The applicant is a Sub-Inspector. It is further submitted by learned counsel for the applicant that perusal of the FIR would go to show that the only allegation is that there is a demand of Rs. 5000/-, however, there is no acceptance of the amount as bribe. Learned counsel for the applicant while relying upon paragraph no. 88 of the judgment of the Supreme Court in **Neeraj Dutta Vs. State (Government of NCT of Delhi), (2023) 4 SCC 731** submits that proof of demand as well as acceptance of illegal gratification by a public servant is a *sine qua non* in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of Prevention of Corruption Act, 1988. It is further submitted by learned counsel for the applicant that in respect of proof of acceptance there is no material available on record and as such the provision of Section 7 of Prevention of Corruption Act, 1988 would not be attracted in facts and circumstances of present case. The applicant has no criminal history. Applicant is languishing in jail since 24.11.2025 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial.

3. Learned A.G.A. for the State has opposed the prayer for bail and submits that applicant as per the allegation was demanding Rs. 5000/- for submitting a report in favour of the informant, however, does not dispute the fact that in the present case there is no acceptance of bribe and there was only demand.

4. Learned AGA for the State has not brought any fact or circumstances to indicate criminal history or antecedents of the applicant which would disentitle the applicant for Bail.

5. It is not the case of the State that the applicant has not cooperated in the investigation or proceedings before the trial court. Learned AGA for the State has not shown any exceptional circumstances which would warrant denial of bail to the applicant.

6. No material, facts or circumstances has been shown by learned AGA for the State that the accused may tamper with the evidence or witnesses or the accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

7. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

8. It is to be seen that the Supreme Court in **Neeraj Dutta (supra)** case has laid down the guidelines in paragraph no. 88 of the judgment. Paragraph no. 88 is quoted herein below:-

"88. What emerges from the aforesaid discussion is summarised as under:

88.1. *(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7*

and 13(1)(d)(i) and (ii) of the Act.

88.2. (b) *In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*

88.3. (c) *Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*

88.4 (d) *In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*

(i) *if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*

(ii) *On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act.*

(iii) *In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13 (1)(d)(i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the*

bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5 (e) *The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.*

88.6 (f) *In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.*

88.7 (g) *Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d)(i) and (ii) of the Act.*

88.8 (h) *We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub para 88.5 (e), above, as the former is a mandatory presumption while the latter is discretionary in nature."*

9. One of the essential ingredients in the law laid down by the Hon'ble Supreme Court in paragraph no. 88.1 of the judgment in **Neeraj Dutta (supra)** case requires that proof of demand and acceptance of illegal

gratification is *sine qua non* in order to establish the guilt under Section 7 of the Prevention of Corruption Act, 1988.

10. Once it is an admitted case of the opposite party that no illegal gratification was received by applicant and unless there is a receipt of the illegal gratification, the condition under Section 7 of the Prevention of Corruption Act, 1988 may not be fulfilled and case under Section 7 of the Prevention of Corruption Act, 1988 may not be in accordance with the law laid down in **Neeraj Dutta (supra)** case.

11. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties, coupled with the fact that there is no criminal history of the applicant and without expressing any opinion on the 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**. The observations made in the present case would not in any manner affect the trial of the case.

12. Let the applicant-**Sub-Inspector Lalbahadur Prasad** involved in Case Crime No. 441 of 2025, under Section 7 of the Prevention of Corruption Act, 1988, Police Station Devgaon, District Azamgarh be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make himself available for interrogation by a police officer as and when required.
- iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
- v. 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 or to any police officer or tamper with the evidence.

vi. The applicant shall not leave India without the previous permission of the Court.

vii. In the event, the applicant changes residential address, the applicant shall inform the court concerned about new residential address in writing.

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

(Vikram D. Chauhan,J.)

March 31, 2026

VMA