
(1999) 08 AHC CK 0018
In the Allahabad High Court
Case No : C.M.W.P. No. 17416 of 1997

Ram Chandra Shukla

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 11-08-1999

Acts Referred:

Citation : (1999) 4 AWC 2998 : (1999) AWC 2998 : (1999) 3 UPLBEC 1932

Hon'ble Judges : M. Katju, J; Krishna Kumar, J

Bench : Division Bench

Advocate : Radhey Shyam, C.P. Gupta and V.B. Upadhyay, for the Appellant;
S.C., Vinod Mishra and Sunil Ambwani, for the Respondent

Judgement

M. Katju, J.—Heard learned counsel for the petitioner and learned standing counsel.

2. The petitioner has challenged the order of his dismissal from service dated 17.4.1997 Annexure-7 to the petition. The petitioner was Addl. District and Sessions Judge and was placed under suspension by order dated 29.11.1995 and after enquiry, he was dismissed from service. The charges against the petitioner were that after the High Court rejected bail in two cases, the petitioner as A.D.J. granted bail. Learned counsel for the petitioner has urged that so far as the first charge is concerned, the High Court rejected the bail as not pressed. In fact in this case earlier, the District and Sessions Judge. Sri N. S. Gahlot had rejected the bail on merits and thereafter the bail application had been moved before the High Court and this application was dismissed as not pressed. As, regards charge No. 2. the bail application had been rejected by the High Court on merits after it had earlier been rejected by the District and Sessions Judge. Thereafter the petitioner as Addl. District and Sessions Judge granted bail.

3. In our opinion, once the High Court rejects bail, the subordinate court has no business to grant bail. It is gross indiscipline and the entire judicial system will be subverted if this is done. All the judicial officers of the subordinate judiciary

should realise that the High Court is superior to the subordinate judiciary. Once the High Court has rejected bail, no District and Sessions Judge or Addl. District and Sessions Judge can grant bail. Thus, the petitioner as Addl. District and Sessions Judge has committed gross insubordination by granting bail once the bail had been rejected by the High Court.

4. Learned counsel for the petitioner has placed before us a Judgment of a learned single Judge of this Court in Mohan Lal v. State of U. P. and others, 1995 JIC 105 CrI. Misc. Bail Application No. 2087 of 1993, decided on 14.11.1994, where the learned single Judge Hon. S. K. Verma. J., has held that after the High Court rejects bail on merits, the Sessions Judge can entertain the bail application and can grant it. We do not at all agree with this view. Such a view will be totally subversive of Judicial discipline. After the High Court rejects bail on merits. the Sessions Judge cannot grant bail. Hence we overrule the view of Hon"ble S. K. Verma, J.

5. The petitioner has been found guilty in the enquiry report of Hon"ble A. N. Gupta. J. and the finding of guilt is a finding of fact and this Court cannot interfere with findings of fact. The petition is hence dismissed.

6. Let a copy of this judgment be circulated by the Registrar of this Court to the all District and Sessions Judges and Addl. District and Sessions Judge of the State so that they may know the law on this point that once the High Court rejects bail, the subordinate Judiciary cannot grant bail and it will be treated as a serious misconduct if they do so.