

Pushpendra Gupta vs State Of U.P. on 13 April, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 88

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15399 of 2023

Applicant :- Pushpendra Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Basu, Prashant Agrawal

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan, J.

Learned A.G.A. submits that instructions have been received and he has no objection in case the bail application is heard on merits.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

It is submitted by learned counsel for the applicant that the applicant has been falsely implicated. The applicant is a labour in the Factory and when the police authorities raided the Factory, counterfeit Gutaka was found in the premises. He submits that the applicant is not the owner of the Factory and was only a worker, as such, the criminal case against the applicant is not made out. He submits that the name of the applicant has come into light on the basis of the statements made by co-accused Laxman Rajpoot and Sandeep Srivas @ Dhalchandra, who were arrested from the spot and both the aforesaid persons have already been granted bail by co-ordinate Bench of this Court vide orders dated 31.3.2023 and 31.3.2023 passed in Criminal Misc. Bail Application Nos.14433 of 2023 and 14407 of 2023. Copies of which have been produced for perusal. The applicant has explained his criminal history in paragraph 21 of the affidavit filed in support of bail application. Applicant is languishing in jail since 12.3.2023 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial.

Learned A.G.A. for the State opposed the prayer for bail but does not dispute factual matrix of the case.

Learned AGA has pointed out the criminal antecedents of the applicant. No material or circumstance has been brought to the notice of this Court with regard to tampering of evidence or intimidating of witness in previous criminal cases. In *Ash Mohammad v. Shiv Raj Singh*, (2012) 9 SCC 446, the Apex Court in para 30 has observed:

"We may hasten to add that when we state that the accused is a history-sheeter we may not be understood to have said that a history-sheeter is never entitled to bail. But, it is a significant factor to be taken note of regard being had to the nature of crime in respect of which he has been booked."

In so far as criminal antecedents of the applicant is concerned, it is not the case of the State that applicant might tamper with or otherwise adversely influence the investigation, or that he might intimidate witnesses before or during the trial. The State has also not placed any material that applicant in past attempted to evade the process of law. If the accused is otherwise found to be entitled to bail, he cannot be denied bail only on the ground of criminal history, no exceptional circumstances on basis of criminal antecedents have been shown to deny bail to accused, hence, the Court does not feel it proper to deny bail to the applicant just on the ground that he had criminal antecedent.

The principle that Bail is a rule and Jail is an exception has been well recognised by Apex Court more specifically on the touch stone of Article 21 of the Constitution. The said principle has been reiterated by the Apex Court in *Satyendra Kumar Antil Vs Central Bureau of Investigation and another*, 2022 (10) SCC 51. Learned AGA has not shown any exceptional circumstances which would warrant denial of bail to the applicant.

No material, facts or circumstances has been shown by learned AGA 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.

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.

Learned AGA for the State has not shown any material or circumstances that the accused/applicant is not entitled to bail in larger interests of the public or State.

Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties 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.

Let the applicant Pushpendra Gupta involved in Case Crime No.65 of 2023, under Sections 420, 467, 468, 471, 272, 273 IPC and Section 59 Food Safety and Standard Act, 2006, Police Station Rath, District Hamirpur 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:-

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not pressurize/intimidate the prosecution witness.
3. 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.
4. 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.
- 5 . 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.
6. The applicant shall not leave India without the previous permission of the Court.

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

Order Date :- 13.4.2023 D. Tamang