

# **Lavkush @ Chhotu vs State Of U.P. on 2 August, 2022**

**Author: Siddharth**

**Bench: Siddharth**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 24776 of 2022

Applicant :- Lavkush @ Chhotu

Opposite Party :- State of U.P.

Counsel for Applicant :- Rupesh Kumar Singh, Praveen Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

Supplementary affidavit filed on behalf of the applicant in the Court today is taken on record.

Heard learned counsel for the applicant, learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant, Lavkush @ Chhotu, with a prayer to release him on bail in Case Crime No. 45 of 2022, under Section 269, 272, 419, 420, 120-B I.P.C., Section 60(2), 60/63 of U.P. Excise Act and Section 63, 65 of Copyright Act, Police Station- Sakaldeeha, District- Chandauli, during pendency of trial.

It has been submitted by learned counsel for the applicant that offence under Section 60(2), 60/63 of U.P. Excise Act is bailable and triable by Magistrate but offences u/s 419, 420 I.P.C. are non-bailable. But under Food Safety and Standards Act, 2006, complaint was required to be filed in

place of implication u/s 269, 272 I.P.C. and lodging of F.I.R. False recovery has been alleged against the applicant. The applicant is languishing in jail since 01.04.2022. In case he is enlarged on bail, he will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre-trial stage, therefore, he does not deserves any indulgence. In case the applicant is released on bail, he will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 that :-

- (i) The applicant shall not tamper with the evidence or threaten the witnesses.
- (ii) 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.
- (iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.
- (iv) 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.
- (v) 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.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 2.8.2022 KS