

## Mahendra Rohra vs State Of U.P. on 26 July, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2023:AHC:149895

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438 CR.P.C. No. - 8316 of 2023

Applicant :- Mahendra Rohra

Opposite Party :- State of U.P.

Counsel for Applicant :- Gyanendra Singh, Diwakar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This application has been moved on behalf of the applicant - Mahendra Rohra seeking anticipatory bail in Case Crime No. 529 of 2023, under Sections 419, 420, 467, 468, 471, 272, 273 IPC and 59 of the Food Safety and Standards Act, 2006, Police Station Kotwali Nagar, District Banda.
2. Heard Shri Diwakar Tiwari, learned counsel for the applicant, Shri Pankaj Kumar Tripathi, learned A.G.A. for the State and perused the record.
3. It has been submitted by the learned counsel for the applicant that applicant is innocent and he has apprehension of his arrest in the above-mentioned case, whereas there is no credible evidence against him. Allegations levelled against the applicant are false. It is further submitted that the applicant was having a valid licence for the business relating to the materials which recovered in the police raid and is the proprietor of the firm 'Mahendra Kumar Trading as M/s Gurunanak Enterprises'. The investigation of the case is going on. It has been submitted that in case applicant is granted anticipatory bail, he shall not misuse the liberty of bail and would obey all conditions of bail.

4. Learned A.G.A. opposed the prayer for anticipatory bail and submitted that huge quantity of Gutkha and materials relating thereto have been recovered from the place of occurrence by the police which co-relates the address of principal place of business as per registration certificate issued in favour of the applicant and as such he was not authorized for manufacturing and storage of Gutkha.

5. In this matter, in a police raid made on 24.6.2023, a huge quantity of adulterated tobacco and several materials for manufacturing Gutkha, wrappers, machines, etc. were recovered from the place of business of the present applicant. Co-accused Barababu was arrested on the spot. It also appears from the perusal of the record that the said adulterated and noxious Gutkha was being prepared without any licence which was intended for sale. Applicant has active participation in the alleged crime and the co-accused, in whose statement the name of the applicant came into light, is his real brother.

6. In *Sushila Aggarwal and others vs. State (NCT of Delhi) and another*, (2020) 5 SCC 1, the Hon'ble Apex Court has held that while considering an application for grant of anticipatory bail, the court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence including intimidating witnesses, likelihood of fleeing justice, such as leaving the country, etc. It has further been held that Courts ought to be generally guided by considerations such as the nature and gravity of the offences, the role attributed to the applicant, and the facts of the case, while considering whether to grant anticipatory bail, or refuse it. Whether to grant or not is a matter of discretion.

7. Hence, considering the settled principles of law regarding anticipatory bail, submissions of the learned counsel for the parties, nature of accusation, role of applicant, all attending facts and circumstances of the case and the fact that allegations are serious in nature, without expressing any opinion on the merits of the case, in my view, it is not a fit case for anticipatory bail to the applicant. Prayer made in the application is refused.

8. The application is rejected.

Order Date :- 26.7.2023 safi