

# **Atul Singh vs State Of U.P. on 8 June, 2021**

**Author: Karunesh Singh Pawar**

**Bench: Karunesh Singh Pawar**

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 18

Case :- BAIL No. - 4823 of 2021

Applicant :- Atul Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Satendra Kumar (Singh), Karunesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar, J.

The matter is taken up through video conferencing.

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

Learned counsel for the applicant submits that the applicant is a bonafide owner of the beer shop having a valid license. Allegedly on the information of the informer, the complainant raided one shop adjacent to the shop of the applicant and seized the heavy amount of unauthorized liquor as well as the beer cans from the concerned shop. It is submitted that the above mentioned activity of the complainant regarding the inspection of the wine shop and recovery of illegal liquor and beer cans was all published in the daily newspaper of of Daily News Amar Ujala of the area. The newspaper cutting is on record as Anneuxre No.3 to the bail application. The applicant has totally denied the prosecution story.

It is further submitted that the applicant has been falsely implicated and nothing incriminating, as stated in the F.I.R., has been recovered from him.

It is further submitted that vide notification dated 29.07.2010, Section 97 of Food Safety and Standards Act came into force as such on and after 29.07.2010, the Prevention of Food Adulteration Act remained no more in existence and Section 272/273 I.P.C. has already been repealed by Prevention of Food Adulteration Act.

It is further submitted that by virtue of Section 97(4) of Food Safety Standard Act, after three years from the date of commencement, the prosecution in any other law/section is prohibited. It is also submitted that Section 5 of I.P.C. provided that nothing in this Act affect the provisions of any special or local law, and thus contended that imposition of Section 272/273 is bad in the eyes of law and also violation of Article 14 of the Constitution of India.

It is further submitted that there is no possibility of the applicant of fleeing away after being released from jail or tampering with the witnesses. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

Considering the facts and circumstances of the case, and also considering the nature of allegations, arguments advanced by learned counsel for the parties, for the period for which he is in jail and without expressing any opinion on the merits of the case, I find it to be a fit case for enlarging the applicant on bail.

Let the applicant, Atul Singh, involved in Case Crime/F.I.R. No. 106/2021, under Sections 420/467/468/471/272/273 IPC and Section 60/63 of U.P. Excise Act, Police Station - Kunda, District - Pratapgarh, 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 which are being imposed in the interest of justice:-

- (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 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.
- (iv) 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.

(v) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(vi) 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.

Order Date :- 8.6.2021 R.C.