

# Vikash Kumar Gupta vs State Of U.P. And Another on 5 April, 2023

**Author: Rahul Chaturvedi**

**Bench: Rahul Chaturvedi**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 67

Case :- APPLICATION U/S 482 No. - 10356 of 2023

Applicant :- Vikash Kumar Gupta

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rajesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi,J.

Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.

By means of the present 482 Cr.P.C. application, the prayer sought by the applicant is to quash the summoning order dated 06.07.2022 as well as entire proceeding of case no.123 of 2022 under sections 3(1)(zf), 3(1)(zz)(v), 26(2)(ii and i), 51, 59(iii) of the Food Safety and Standards Act, 2006 police station-Jalalpur, District-Hamirpur.

After arguing the case for quite some time at length and pitted against certain observations made by the Court, learned counsel for the applicant himself has given up to address the Court on merits of the case and prayed, that the purpose of his client would suffice, if a direction may be given to the courts below to decide his bail application within specific time frame.

Considering the entire facts and circumstances of the case and the arguments advanced, this Court is of the opinion that since learned counsel for the applicant has already given up that he does not want to press the case on merit, in the fitness of circumstances, this 482 Cr.P.C. application stands disposed of with the direction that the court below would extend the benefit of interim bail (if the court concerned deems it fit according to the merit of each case) as contemplated in the law laid down by this Court in the case of Amrawati and another Vs. State of U.P. reported in 2004 (57) ALR 290 as well as judgement passed by Hon'ble Apex Court reported in 2009 (3) ADJ 322 (SC) Lal Kamendra Pratap Singh Vs. State of U.P. after the applicant surrenders within 10 days before the court and if his bail application is filed, the same shall be adjudicated and decided by the courts below with speaking and reasoned order, strictly in accordance with law, in the light of the judgment given by Hon'ble Apex Court in the case of Hussain and another Vs. Union of India reported in (2017) 5 SCC Page-702, relevant extract of which reads as under :-

"?.....Judicial service as well as legal service are not like any other services. They are missions for serving the society. The mission is not achieved if the litigant who is waiting in the queue does not get his turn for a long time"..... "Decision of cases of under-trials in custody is one of the priority areas. There are obstructions at every level in enforcement of right of speedy trial; vested interests or unscrupulous elements try to delay the proceedings"..... "In spite of all odds, determined efforts are required at every level for success of the mission"..... "The Presiding Officer of a court cannot rest in a state of helplessness. This is the constitutional responsibility of the State to provide necessary infrastructure and of the High Courts to monitor the functioning of subordinate courts to ensure timely disposal of cases."

To satiate speedy disposal of the cases, the courts below are issued following directions in accordance with the observations made in the case of Hussain and another (Supra):

(i) Bail applications be disposed of normally within one week :

(ii) Magisterial trials, where accused are in custody, be normally concluded within six months and sessions trials where accused are in custody be normally concluded within two years.

(iii).....;

(iv)....."

The above timelines may be the touchstone for assessment of judicial performance in annual confidential reports.

For the period of 10 days from today, bailable warrant dated 31.01.2023 shall remain stayed against the applicant in the aforementioned case.

It is made clear that no time extension application would be entertained for extending the period of 10 days.

The ratio mentioned above is the last word for every judicial officers for abiding with the directions of the Hon'ble Apex Court. In the aforesaid scenario, it would be pertinent to refer the case of Brahm Singh and others Vs. State of U.P. and others decided on 08.07.2016 in Criminal Misc. Writ Petition No.15609 of 2016 whereby co-ordinate Bench of this Court, while taking into account the concerns of most of the counsels with regard to the long pending bail applications at lower courts' stage has expressed their anguish and concern.

In the aforesaid backdrop, learned Sessions Judge/the concerned Trial Judge is directed to ensure that the guidelines given in the case of Hussain and another (supra) as well as in Brahm Singh and others(Supra) has to be carried out in its letter and spirit, failing which an adverse inference would be drawn against the erring officers and this Court would be compelled to take appropriate action against them, if found that there is laxity in adhering the above directions.

In the event, the bail application is not decided within seven days as contemplated above, the learned Judge will have to spell out the justifiable reasons and record the same on the order sheet of such cases.

With the aforesaid observations, the present 482 Cr.P.C. application stands disposed of.

Order Date :- 5.4.2023 Sumit S