

Ashish Gupta vs State Of U.P. on 1 December, 2022

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37786 of 2022

Applicant :- Ashish Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1.Heard Sri Sushil, Sri Pawan Kumar Mishra and Sri P.K. Singh, the learned counsel for the applicant, Sri Rishi Chaddha and Sri D.K. Srivastava, the learned Additional Government Advocates and perused the record.

2.The instant application has been filed seeking release of the applicant on bail in Case Crime No. 286 of 2022, under Sections 420, 467, 468, 471, 272 and 273 IPC and Section 59 of Food Safety and Standard Act, 2006, Police Station Sumerpur, District Hamirpur.

3.The aforesaid case has been registered on the basis of a first information report lodged by the Inspector In-charge of the police station against five named accused persons, including the applicant, alleging that on the basis of an information received from a Mukhbir, several premises were raided, in which material and equipment for manufacturing of Gutkha was recovered. The applicant was found present in the one of the premises. The premises is allegedly owned by the applicant's father. Although, the FIR was lodged under Sections 420, 467, 468, 471, 272 and 273 IPC and Section 59 of Food Safety and Standard Act, 2006 has been expunged.

4.It has been averred in the affidavit filed in support of the bail application that the applicant is an innocent person, he has been falsely implicated in the case, he is having no previous criminal history and he is in jail since 17.07.2022. It has also been stated in the affidavit that there is no possibility of the applicant tampering with any evidence and in such circumstances, the applicant is entitled for bail. It is also stated in the affidavit that the applicant will not misuse the liberty of bail and he will

fully cooperate in the investigation.

5.Seven other co-accused persons have sought quashing of the FIR by filing Criminal Misc. Writ Petition No. 10307 of 2022 and by means of an order dated 11.08.2022, a Division Bench has passed an interim order directing that the petitioner shall not be arrested pursuant to the impugned FIR till the next date of listing provided that they will cooperate with the investigation..

6.Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail, but he could not dispute the aforesaid aspects of the matter.

7.Having considered the aforesaid facts and circumstances of the case, what prima facie appears from the allegation levelled in the FIR is that the applicant was merely found present at one of the locations raided, which is alleged to be owned by his father. Some other persons who were found present in some premises, had not been arrested, as per the averments made in the FIR itself. Besides the allegation of mere presence of the applicant in one of the premises, there is no allegation against him. Keeping in view the aforesaid fact, coupled with the fact that arrest of seven other co-accused persons has already been stayed by this Court and the applicant is languishing in jail since 17.07.2022 whereas he has no criminal history, I am of the view that the applicant is entitled to be released on bail in the aforesaid case.

8.In light of the preceding discussion and without making any observation on the merit of the case, the instant bail application is allowed.

9.Let the applicant Ashish Gupta be released on bail in Case Crime No. 286 of 2022, under Sections 420, 467, 468, 471, 272 and 273 IPC and Section 59 of Food Safety and Standard Act, 2006, Police Station Sumerpur, District Hamirpur, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the following conditions:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make 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 to any police officer or tamper with the evidence.

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

Order Date :- 1.12.2022/Ashish Pd.

