

Awadhesh @ Kallu Sharma vs The State Of Madhya Pradesh on 20 May, 2024

Author: Sunita Yadav

Bench: Sunita Yadav

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IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR
BEFORE
HON'BLE SMT. JUSTICE SUNITA YADAV
ON THE 20th OF MAY, 2024
MISC. CRIMINAL CASE No. 13603 of 2024

BETWEEN: -
AWADHESH @ KALLU SHARMA S/O RAMDAS SHARMA,
AGED ABOUT 40 YEARS, R/O STATION ROAD, GOHAD
CHAURAHA DISTRICT BHIND (MADHYA PRADESH)

(BY SHRI SANJAY KUMAR BAHIRANI - ADVOCATE)

AND
THE STATE OF MADHYA PRADESH THROUGH STATION
POLICE STATION GOHAD CHAURAHA, DISTRICT
BHIND (MADHYA PRADESH)

(BY SHRI ROHIT MISHRA - ADDITIONAL ADVOCATE GENERAL)

This application coming on for admission this day, the following:

ORDER

This is first application filed by the applicant under Section 438 of the Cr.P.C. for grant of anticipatory bail relating to FIR No.306 of 2023 registered at Police Station Gohad Chauraha, District Bhind (M.P.) for the offence under Sections 420, 272 & 273 of IPC.

Allegations against the applicant / accused, in short, are that on 03/11/2023 Food Safety Officer Avinash Gupta alongwith other officials made an inspection at Kamini Sales Agency Gohad Chauraha where applicant was found to be selling the materials which are used for preparation of adulterated milk. In presence of independent witnesses, seven samples of adulterated substance were taken, shop was sealed and seizure memo was prepared under the Food Safety Act, 2006 and sent to the concerned Laboratory for testing. On the basis of aforesaid, a case was registered against the applicant.

Learned counsel for the applicant argued that applicant is innocent and has been falsely implicated. It is further argued that no substance of food material was found in the applicant's shop and only on the basis of the allegation that the applicant was selling the equipment related to dairy product, present FIR has been registered which is prima-facie illegal, contrary and against the law. Further argument is that if the sample found to be unsafe then prior making the prosecution, the sanction is required from the Commissioner u/S. 42(3) of The Food Safety and Standards Act, 2006 but in the present case no sanction has been obtained from the Commissioner. It is further argued that in case sample is found to be sub-standard and adulterated then prosecution cannot initiate any criminal action because u/Ss. 51 & 57 of The Food Safety and Standards Act, 2006 only penalty can be imposed and no imprisonment is provided under such offences.

In support of his submissions, counsel for the applicant relied upon the decisions of Apex Court in the case of Ram Nath Vs. The State of U.P. passed in Cr.A. No.472 of 2012 decided on 21/02/2024 and in the case of Sushil Kumar Gupta Vs. State of West Bengal arising out of SLP (Crl.) No.15495 of 2023 decided on 22.03.2024.

It is further argued that the applicant is permanent resident of District Bhind (M.P.) and there is no possibility of his absconding or tampering with the prosecution evidence. The applicant shall abide by the terms and conditions as may be imposed by this Court. Under these circumstances, he prays for grant of anticipatory bail to the applicant.

On the other hand, learned State counsel vehemently opposed the application and prayed for its rejection.

Heard learned counsel for the rival parties and perused the case diary available on record.

Having taken into consideration the entirety of the facts and material available on record, without expressing any opinion on merits of the case, this application is allowed and it is directed that in the event of arrest, the applicant be released on bail on executing a personal bond in the sum of Rs.1,00,000/- (Rupees One Lakh Only) with one solvent surety in the like amount to the satisfaction of the Arresting Officer/Investigating Authority.

The applicant shall further abide by other conditions enumerated under Section 438 (2) of the Code of Criminal Procedure and shall cooperate in the investigation, otherwise this bail order shall automatically stand cancelled.

Certified copy as per rules.

(SUNITA YADAV) JUDGE vpn