

Shohbata vs State Of U.P. on 22 July, 2022

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29729 of 2022

Applicant :- Shohbata

Opposite Party :- State of U.P.

Counsel for Applicant :- Narsingh Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicant and learned A.G.A. for the State.

The instant bail application has been filed on behalf of the applicant, Shohbata, with a prayer to release her on bail in Case Crime No. 212 of 2022 under Sections 272 I.P.C. and Section 60, 60(2), 63 of U.P. Excise Act, Police Station- Parasrampur, District- Basti, during pendency of trial.

There is allegation in the F.I.R. regarding recovery of illicit liquor from applicant.

It has been submitted by learned counsel for the applicant that offence under Section 60, 60(2), 63 of U.P. Excise Act is bailable and triable by Magistrate but offence u/s 272 I.P.C. is non-bailable. But under Food Safety and Standards Act, 2006, complaint was required to be filed in place of implication u/s 272 I.P.C. and lodging of F.I.R. False recovery has been alleged against the applicant. The applicant is languishing in jail since 28.05.2022. In case she is enlarged on bail, she

will not misuse the liberty of bail.

Per contra learned A.G.A. has opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre-trial stage, therefore, she does not deserves any indulgence. In case the applicant is released on bail, she will again indulge in similar activities and will misuse the liberty of bail.

Having considered the submissions of the parties noted above, larger mandate of the Article 21 of the Constitution of India, dictum of Apex Court in the case of Satendra Kumar Antil Vs. C.B.I. & Another, passed in S.L.P. (Crl.) No. 5191 of 2021 and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid crime be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that :-

- (i) The applicant shall not tamper with the evidence or threaten the witnesses.
- (ii) The applicant shall file an undertaking to the effect that she 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.
- (iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of her absence, without sufficient cause, the Trial Court may proceed against her under Section 229-A of the Indian Penal Code.
- (iv) In case the applicant misuse the liberty of bail during trial and in order to secure her 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 her in accordance with law under Section 174-A of the Indian Penal Code.
- (v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against her in accordance with law.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 22.7.2022 KS