

## Manoj Kumar vs State Of U.P. on 16 January, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 84

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55564 of 2022

Applicant :- Manoj Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- R.B. Pal

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

Heard Sri R.B. Pal, learned counsel for the applicant and Sri Ravi Kant Kushwaha, learned AGA for the State.

The instant application has been filed seeking release of the applicant on bail in Case Crime No. 179 of 2022, under Sections 419, 420, 272, 273 IPC and 26/57/59(II) Khadya Suraksha and Manak Adhiniyam, Police Station- Phariha, District- Firozabad, during pendency of the trial in the court below.

According to the FIR on the information, when raid was made at the house of applicant then from his house huge quantity of alleged adulterated milk and other food items were recovered, and it is further alleged that from the spot detergent powder, formaldehyde etc. were also recovered.

Learned counsel for the applicant submitted that applicant is innocent and he has falsely been implicated in the present matter and he is in business of dairy and he never indulged in adulterating any milk etc. He further submitted that as per the report of chemical analyst (Annexure No.- 5), the recovered milk was found sub-standard, and it was not noxious and, therefore, applicant can only be prosecuted under the provisions of Food Safety and Standards Act, and no offence under Section 419, 420, 272, 273 IPC, is made out against the applicant.

He further submitted that from the spot co-accused Pradeep Yadav was arrested and it is alleged that applicant and co-accused Munesh managed to escape and Pradeep Yadav and Munesh have already been released on bail by co-ordinate bench of this Court vide bail orders dated 20.12.2022 passed in Criminal Misc. Bail Application No. 54153 of 2022 and 56911 of 2022 respectively. He further submits that applicant is having no criminal history and he is in jail in the present matter since 7.11.2022.

Per contra, learned AGA opposed the prayer for bail but could not dispute the factual arguments advanced by learned counsel for the applicant.

I have heard learned counsel for the parties and perused the record of the case.

From the perusal of the record, it appears that applicant was not arrested from the spot and the milk which was alleged to have been recovered, was found sub-standard and from the perusal of the report of the chemical analyst, it could not be reflected that the alleged recovered milk was either injurious to health or noxious, further, co-accused Pradeep Yadav who was arrested at spot and co-accused Munesh also managed to escape along with applicant, have already been released on bail.

Therefore, considering the facts and circumstances of the case and the fact that two co-accused have already been released on bail, in my view applicant is entitled to be released on bail.

In the light of discussions made above, without expressing any opinion on the merits of the case, the instant bail application is allowed.

Let the applicant- Manoj Kumar be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.
- (ii) 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 or any police officer or tamper with the evidence.
- (iii) The applicant shall not indulge in any criminal and anti-social activity.

In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

Order Date :- 16.1.2023 KK Patel