

Mahesh Kumar Gupta vs State Of U.P. on 11 November, 2022

Author: Piyush Agrawal

Bench: Piyush Agrawal

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45583 of 2022

Applicant :- Mahesh Kumar Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Swetashwa Agarwal, Pavan Kumar Mishra, Punit Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Piyush Agrawal, J.

Supplementary affidavit filed today is taken on record.

Heard Ms. Poorva Agarwal along with Mr. Swetashwa Agarwal learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No. 290 of 2022, under Sections 420, 467, 468, 471, 272 and 273 IPC read with Section 59 of Food Safety and Standard Act, Police Station- Sumerpur, District - Hamirpur.

Learned counsel for the applicant submitted that the applicant is innocent and has been falsely implicated in the present crime. It is submitted that as per the version of the FIR it has been alleged that during the alleged raid the first informant and police authorities have failed to bring forward any independent witness. It is further submitted that the instant criminal prosecution and lodging of

multiple FIR is also with an intention to also prosecute the applicant which is not permissible under the provisions of section 162 Cr. P.C. It is further submitted that under the Food Safety and Standard Act there is specific procedure and it is not permitted to the competent authority for registering criminal case against the applicant. It is further submitted that the co-accused, namely, Rakesh Gupta and 5 others have already been granted interim stay in Criminal Misc. Writ Petition No. 10291 of 2022 vide order dated 11.8.2022. It is also submitted that there is no apprehension that after being released on bail, he may flee from the course of law or may, otherwise, misuse the liberty of bail and the applicant is in jail since 17.7.2022 and the possibility of conclusion of trial in near future is very bleak.

Learned A.G.A. has, however, opposed the prayer for grant of bail.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let applicant namely Mahesh Kumar Gupta be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall file an undertaking to the effect that he 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) 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 him in accordance with law.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 11.11.2022 samz (Piyush Agrawal, J.) ...