

Devendra vs State Of U.P. on 16 March, 2023

Author: Siddharth

Bench: Siddharth

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 5932 of 2023

Applicant :- Devendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Certified copy of the first information report filed by learned counsel for the applicant by means of supplementary affidavit is taken on record.

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

It has been submitted that implication under Section 272 IPC is unjustified since there is a special Act holding the field, i.e. Food Safety and Standards Act, 2006. False recovery has been shown against the applicant. The offence under sections 60(2) of Excise Act is bailable and triable by Magistrate The applicant is in jail since 09.12.2022.

On the other hand learned AGA has opposed the prayer for bail but could not dispute the above submissions.

Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, submissions of the learned counsel for the parties noted herein above, larger mandate of the Article 21 of the Constitution of India, recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil Vs. C.B.I., passed in S.L.P (Crl.) No.5191 of 2021 and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, Devendra, involved in Case Crime No.1027 of 2022, under Section 60(2) of U.P. Excise Act and Section 272 I.P.C, Police Station Majhola, District- Moradabad be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(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 his absence, without sufficient cause, the Trial Court may proceed against him 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 his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants 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.

(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 him in accordance with law.

In case of breach of any of the above conditions, the complainant is free to move an application for cancellation of bail before this court.

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

Order Date :- 16.3.2023 SS