

Court No. - 73

Case :- CRIMINAL MISC ANTICIPATORY BAIL
APPLICATION U/S 438 CR.P.C. No. - 11053 of 2023

Applicant :- Mahendra Rohra

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Alok Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava, J.

1. This is the second anticipatory bail application moved on behalf of the applicant - **Mahendra Rohra** seeking anticipatory bail in Case Crime No.529 of 2023, under Sections 419, 420, 467, 468, 471, 272, 273 IPC and Section 59 of Food Safety and Standards Act, 2006, Police Station Kotwali Nagar, District Banda.

2. Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

3. The only new ground taken in this second anticipatory bail application is that after passing of the first anticipatory bail rejection order dated 26.7.2023, during investigation offence under sections 272 and 273 IPC was deleted by the I.O. and since no proper procedure has been adopted in respect of the investigation and initiation of prosecution in this case, literally the F.I.R. could not be lodged in this matter and as such applicant is entitled for anticipatory bail.

4. At the very outset, the learned State counsel has submitted that the I.O. of the case is present in compliance of the order of the Court and a compliance affidavit has been given by him that offence under sections 272 and 273 IPC is no more operative in this matter and the proper course of action shall be taken by the Food Safety Department. He has tendered unconditional apology for the typographical error made in the earlier report / affidavit.

5. This Court is satisfied with the explanation given by the I.O. The notice is discharged and he is exempted from his personal appearance till further orders.

6. Learned counsel for the applicant has submitted that since the major offence under sections 272, 273 IPC has been deleted from

this matter and the applicant has not cheated anyone and no forgery of valuable security or will etc. is alleged in the present case, actually no offence is now made out against the present applicant.

7. Contending to that, learned State counsel has vehemently submitted that a huge quantity of forged wrappers of pan masala, gutka relating to established goodwill Company and gutka and pan masala as well have been recovered from the godown of the present applicant. The forged wrappers were prepared by the applicant to make an impression upon the customers at large that the material inside the wrapper belongs to a reputed Company whereas in reality it was not so and rather it was impure material and no license had been given to the applicant to prepare gutka and in this way a serious offence has been committed by the applicant.

8. In view of the submissions made by both the sides and also keeping in view this fact that the first anticipatory bail application has been disposed of by this Court on merits and the deletion of sections 272 and 273 IPC from this matter hardly makes any difference so far as the gravity of the offence committed by the applicant is concerned, I am of the view that the second anticipatory bail application has no merit and it is liable to be rejected.

9. The anticipatory bail application is, accordingly, **rejected**.

Order Date :- 5.12.2023

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