

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46737 of 2023

Applicant :- Pankaj Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Kumar Singh, Rajesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The FIR in question was lodged alleging that on a search being carried out, the three accused named in the FIR were found to be involved in manufacturing of illicit liquor. It is also recorded that at the pointing out of the applicant, 10 ltrs. of liquid alongwith urea and *phitkiri* were recovered. Based upon the said search, the applicant has been implicated with the offence in question. It is argued that the recovery is not in the presence of independent witnesses; there is no material on record to demonstrate as to how the offence under Section 272 & 273 are made out as even if for the same of argument, the recovery is admitted, it cannot be presumed that the said material was rendered noxious. It is further argued that subsequently, the applicant was implicated in two other cases and he has been enlarged on bail. The said two bail orders are on record at Page - 27 & 28.

3. Learned AGA has opposed the bail application.

4. Considering the fact that *prima-facie*, the material to invoke offence under Section 272 & 273 IPC are missing and the offence under Section 60 of Excise Act is punishable for a term less than seven years, the applicant is entitled to be enlarged on bail. In view thereof, the application is **allowed**.

5. Let the applicant **Pankaj Yadav** be released on bail in FIR No.269 of 2023, under Section 272 & 273 IPC & Section 60 of Excise Act, P.S. Gadwar, District Ballia on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

Order Date :- 3.11.2023

nishant