

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8650 of 2023

Applicant :- Chimpu @ Shimpu @ Ankit

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Smriti, Dharm Trivedi

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard learned counsel for applicant and learned A.G.A. for the State.
2. The present bail application has been filed by the applicant seeking bail in case crime no. 0275 of 2023, under section 272 I.P.C., section 60(2) of Excise Act and sections 4/25 Arms Act registered at Police Station-Kotwali Sadar, District-Kheri.
3. As per the prosecution version, a team of police officials, on receiving a confidential information raided the place of occurrence and found a person manufacturing illicit liquor on a furnace. The police apprehended him. He disclosed his name as Chimpu @ Shimpu. The police recovered 40 litres of adulterated liquor and a number of apparatus being used for distillation, 500 grams of urea, raw material etc and also an illegal knife possessed by the accused/applicant.
4. It is contended on behalf of the applicant that he has been falsely implicated in this case and that the liquor cannot be manufactured/distilled by a single person, without the assistance of others, however the applicant has been implicated by police in an unfair manner leaving out the real offenders. The prosecution has not furnished forensic test report to prima facie show that liquor was adulterated with some toxic substance. It is further contended that the applicant is in custody since 28.03.2023. As far as criminal history is concerned, 16 criminal cases have been cited against him. In some of the cases final report has been submitted; some of the cases have been decided/dropped and in rest of them, he has been granted bail. The history has been explained in the affidavit.
5. The application for bail is opposed by learned A.G.A., however certain aspect of the matter could not be refuted.
6. I considered the nature of allegation, evidence proposed, period of detention and all other facts and circumstances of the case including explanatory defence offered by the applicant in his contentions. In my view, a case for bail is made out.
7. Let applicant -**Chimpu @ Shimpu @ Ankit** 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 not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

8. Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 22.11.2023

Vikram