

Court No. - 47

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17055 of 2019

Applicant :- Satyaveer

Opposite Party :- State Of U.P.

Counsel for Applicant :- Awadh Bihari Pandey

Counsel for Opposite Party :- G.A.

Hon'ble J.J. Munir,J.

This is an application for bail on behalf of the applicant Satyaveer in Case Crime No.41 of 2019, under Sections 60(2) Excise Act, and Section 272 IPC, Police Station Chaubiya, District Etawah.

Heard Sri Awadh Bihari Pandey, learned counsel for the applicant and the learned AGA appearing on behalf of the State.

The submission of the learned counsel for the applicant is that the applicant has been falsely implicated. It is submitted, in particular, that in the First Information Report-cum-Recovery Memo, there is not a word said that the allegedly recovered bulk of country made liquor, that is said to be noxious and poisonous was intended to be sold as such or was adulterated knowing it to be likely that the same will be sold or offered for sale as a drink. In the absence of the aforesaid allegation in the submission of learned counsel for the applicant, the provisions of Section 272 would not be attracted. It is further argued that the applicant was around the place where some other men might have been into the manufacture of country made liquor, but he was there to watch over his field that are always in peril of destruction by stray cattle and wild animals. He was apprehended after being let off initially. He has no connection whatsoever with what the police

found on some other persons. It is most emphatically argued that the State on the last date when this matter came up had alleged that the applicant had a criminal history on the basis of instructions received from the police, which is not true.

Learned AGA has opposed the prayer for bail and has pointed out that the applicant was earlier involved in Crime No.42 of 2018 under Section 60 of Excise Act, Police Station Chaubiya, District Etawah. Learned counsel submits that the aforesaid stand of the State is one misguiding this Court. He has produced before the Court through a supplementary affidavit filed today, after service upon the learned AGA, a certified copy of the FIR relating to Case Crime No.42 of 2018 (*supra*) which shows that the said crime has nothing to do with the applicant, but another man called Rajeev Kumar.

This Court does not appreciate this kind of a stand being taken by the State. The Senior Superintendent of Police, Etawah shall bear caution before forwarding the instructions to this Court, which may tend to interfere with the citizen's liberty for no good cause.

It is further submitted by learned counsel for the Applicant that the applicant has no criminal history and is in jail since 16.03.2019.

Considering the overall facts and circumstances of the case, the gravity of the offence, the nature of allegations, the severity of punishment, but without expressing any opinion on merits, this Court finds it to be a fit case for bail.

The bail application, accordingly, stands **allowed**.

Let the applicant **Satyaveer** in Case Crime No.41 of 2019, under Sections 60(2) Excise Act, and Section 272 IPC, Police Station Chaubiya, District Etawah be released on bail on executing his personal bond and furnishing two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:

- i) The applicant shall not tamper with the prosecution evidence.
- ii) The applicant shall not threaten or harass the prosecution witnesses.
- iii) The applicant shall appear on the date fixed by the trial court.
- iv) The applicant shall not commit an offence similar to the offence of which the applicant is accused, or suspected of the commission.
- v) 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 such person from disclosing facts to the Court or to any police officer or tamper with the evidence.

In case of default of any of the conditions enumerated above, the complainant would be free to move an application for cancellation of bail before this Court.

Let a copy of this order be forwarded to the Senior Superintendent of Police, Etawah within 48 hours by the Registrar General.

Let a copy of this order be also provided to Sri Indrajeet

Singh Yadav, learned AGA within 48 hours.

Order Date :- 30.4.2019/NSC