

**Court No. - 78**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 17249 of 2021

**Applicant :-** Anil

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Sushil Kumar

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shekhar Kumar Yadav,J.**

This matter is listed for hearing through video conferencing. Link has been sent to the respective learned counsels. Learned Counsel for the applicant and learned A.G.A. for the State are connected through the link.

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

By means of this application, the applicant who is involved in Case Crime No.21 of 2020, under Sections 272 IPC and Section 60 of Excise Act, Police Station Dhanari, District Sambhal, is seeking enlargement on bail during the trial.

Submission made by learned counsel for the applicant is that the applicant has been falsely implicated in the present case. Learned counsel for the applicant submits that the police has shown fake and forged recovery of 5 liter liquid material and 45 pauwa country made liquor and some other materials from the possession of the applicant. He further submits that the alleged recovered material has been sent for chemical labarotary for identification but report has not been received till date. The applicant is nothing to do with the aforesaid offence. The applicant has no criminal history and he is languishing in jail since 18.02.2021.

Learned counsel for the informant as well as learned A.G.A opposed the prayer for bail but could not dispute the aforesaid facts and the legal submissions as argued by the learned counsel for the applicant.

Keeping in view the nature of the offence, evidence, complicity of the accused and submissions of learned counsel for the parties, I am of the view that the applicant has made out a case for bail.

Let the applicant Anil, who is involved in Case Crime No.21 of 2020, under Sections 272 IPC and Section 60 of Excise Act,

Police Station Dhanari, District Sambhal, 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 FILE AN UNDERTAKING TO THE EFFECT THAT HE SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE 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.

(ii) THE APPLICANT SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS COUNSEL. IN CASE OF HIS ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HIS PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT FAILS 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 IPC.

(iv) THE APPLICANT SHALL REMAIN PRESENT, IN PERSON, BEFORE THE TRIAL COURT ON DATES FIXED FOR (1) OPENING OF THE CASE, (2) FRAMING OF CHARGE AND (3) 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.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad. The computer generated copy of such order shall be self attested by the counsel of the party concerned. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

**Order Date :- 31.5.2021**

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