

Sudesh Kumar Sharma Vs. State of U.P. and ors.

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Court : Allahabad

Decided On : Jun-18-1993

Reported in : 1994CriLJ937

Judge : Virendra Saran, J.

Appeal No. : Criminal Misc. Application No. 10214 of 1993

Appellant : Sudesh Kumar Sharma

Respondent : State of U.P. and ors.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : A.B.L. Gour, Adv.

Disposition : Application allowed

Judgement :

ORDER

Virendra Saran, J.

1. Heard the learned Counsel for the applicant and the learned State Counsel.
2. I have gone through the order dated 14-5-93 passed by the C.J.M., Hamirpur. The learned C.J.M., Hamirpur has directed that 650 cartoons of beer bottles may be released in a favour of the applicant Sudesh Kumar Sharma on his furnishing

cash Rs. 77,285/-. The learned Counsel for the applicant has submitted that by depositing this huge amount of money the business of the applicant would suffer. Learned counsel for the applicant has invited my attention to an order passed by Hon'ble Kundan Singh, J. in Criminal Misc. Application No. 8990 of 1993, Kedia Transport Ltd. v, State of U. P. In the case mentioned above, a similar circumstances Hon'ble Kundan Singh, J. has directed that the property be released on furnishing security other than cash or Bank guarantee. I am in respectful agreement with the view taken by Hon'ble Kundan Singh, J. The learned C.J.M., Hamirpur has lost sight of the fact that businessmen need cash for transacting their business and if a huge amount of Rs. 77,285/- is blocked the applicant will be handicapped for doing the business. Care should always be taken not to strangle businessmen as the prosperity of the country itself depends on free flow of business activity. The release of the beer on depositing such huge amount itself amounts to denial of the relief to the applicant. The learned C.J.M. should also have borne in mind that if the beer is not released it will become unfit for human consumption by the passage of time and hence the release should not have been impaired by such condition as depositing the cash amount. The order of the learned C.J.M. requiring cash security, should, therefore, be set aside.

3. This application is allowed and it is directed that the cartoons of beer bottles may be released in favour of the applicant on furnishing security other than cash or bank guarantee. The release of the beer should not be delayed unnecessarily.

4. With the above directions, this application is finally disposed of.

5. A certified copy of this order shall be issued to the learned Counsel for the applicant on payment of usual charges by 21-6-1993 positively.