

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17342 of 2023

Applicant :- Navratan Dhandhu

Opposite Party :- State of U.P.

Counsel for Applicant :- Perdeep Kumar Vishnoi, Amreesh Kumar, Rahul Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Rahul Kumar Sharma, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 296 of 2022, under Sections 21/22 NDPS Act, Police Station Hathras Gate, District Hathras during pendency of the trial.
3. Learned counsel for the applicant submits that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on 6.1.2023 and he is pressing the second instant second bail application on the ground that after rejection of the first bail application of the applicant bail of co-accused Sonveer @Sonu Pathak has been allowed by coordinate bench of this Court and Sonveer @Sonu Pathak was also arrested along with applicant and 1.05 K.G. diazepam Powder was recovered from him and therefore the case of the the applicant is even on better footing than co-accused Sonveer @Sonu Pathak and therefore on the ground of parity, applicant may be released on bail.

4. He further submits, applicant is having criminal history of one case of Section 379 and he is not having any previous criminal history of NDPS Act and he is in jail since 7.9.2022 i.e. for more than one year.

5. Per contra, learned AGA opposed the prayer for bail and submitted that this is the second bail application of the applicant. First bail application of the applicant was dismissed on merit however he could not dispute, along with applicant co-accused Sanveer was also arrested and from his possession 1 kg 50 grams diazepam powder was recovered and he has already been released on bail by coordinate bench of this Court and from the possession of the applicant 700 grams diazepam power was recovered.

6. I have heard learned counsel for the parties and perused the record of the case.

7. This is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit.

8. Although from the record, it reflects that commercial quantity of diazepam power of 700 grams was recovered from the possession of the applicant but it also reflects from the record that along with the applicant co-accused Sonveer was also arrested and from his possession more than one kg. diazepam power was recovered but after rejection of the first bail application of the applicant he has been released on bail by coordinate bench of this Court.

9. Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and others MANU/SC/0851/2022 in paragraph 73** observes that all the similarly placed accused should be treated equally and while deciding the bail application the Court cannot ignore the provisions of Article 14 and 15 of the Constitution of India.

10. As bail application of co-accused Sonveer has been allowed by

this Court and case of applicant is even at better footing than him, therefore in view of the observation made by the Apex Court in the case of Santeder Kumar Antil (supra) applicant is also entitled to be released on bail on the ground of parity.

11. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

12. Let the applicant - Navratan Dhandhu be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

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

(iii) The applicant shall not indulge in any criminal and anti-social activity.

13. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

14. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 12.10.2023

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