

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19235 of 2023

Applicant :- Mohammad Sadik Hussain @ Kalia

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Rai, Sarvesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain, J.

Counter affidavit filed today by learned A.G.A is taken on record.

Heard learned counsel for the appellant, learned AGA for opposite party no.1 and perused the material placed on record.

This bail application has been filed on behalf of applicant in Case Crime No. 283 of 2022, under Section 8/22 N.D.P.S Act, Police Station Hari Parvat, District Agra with the prayer to enlarge the applicant on bail.

Learned counsel for the appellant has submitted that appellant is innocent and has been falsely implicated in this case. He further submitted that there is no public witness of the alleged recovery. The alleged recovery of Alprazolam is planned by the police, There is no independent witness of such recovery, therefore, false implication cannot be ruled out. It is further submitted that provisions of N.D.P.S Act has not been complied with the present case. It is further submitted that co-accused Umar was having a larger quantity of Alprazolam has been granted bail by this Court vide order dated 20.09.2022 passed in Criminal Misc. Bail Application No. 32709 of 2022, the other co-accused Ashu has been granted bail vide order dated 02.01.2023 passed in Criminal Misc. Bail Application No. 43884 of 2022. It is also submitted that alleged recovery of 450 gm Alprazolam is shown from the possession of the appellant. The criminal history of the appellant has been explained in Annexure-S.A-1 annexed in the supplementary affidavit. Appellant is languishing in jail since 27.06.2022. In case, the appellant is released on bail, he will not misuse the liberty of bail.

Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail but he could not dispute the

aforesaid aspect of the matter.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant **Mohammad Sadik Hussain @ Kalia** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). 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 him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

Order Date :- 31.10.2023

PS