

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28899 of 2023

Applicant :- Sameer Ahmad Ansari

Opposite Party :- State of U.P.

Counsel for Applicant :- Krishna Kumar Singh, Ashok Kumar Singh, Brajesh Dubey, Dr. Abhay Kant Upadhyay, Suresh Singh, Vivek Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan, J.

1. Heard Sri Ram Sanahi Yadav, Advocate holding brief of Sri Suresh Singh, learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. The present bail application has been filed to enlarge the applicant on bail in Case Crime No.
3. It is submitted by learned counsel for the applicant that as per the prosecution case 4270 piece of intoxicating injection were recovered from the possession of the applicant from a public place. The applicant has been falsely implicated in the present case. The applicant was returning from Army Recruitment Centre, Gorakhpur after obtaining informant of recruitment. Thereafter, he was waiting at the bus station to catch a bus when the applicant was apprehended by the police. Once the police has apprehended, it would be presumed that the applicant has falsely implicated. It is further submitted that the recovery is false.
4. Learned A.G.A. for the State has opposed the bail application and submits that the Drug Inspector has confirmed the recovered substance to be contraband substance. The recovery of contraband substance itself is a substantive evidence as such the bail application is liable to be rejected.
5. In the present case, it is to be seen that the applicant was apprehended on 4.5.2023 by the police party and 4270 piece of intoxicating injection, which was subsequently confirmed by the Drug Inspector report to be Buprenorphine. The aforesaid report has not been disputed by the counsel for the applicant. The only plea raised by the learned counsel for the applicant is that the applicant has been falsely implicated in the present case and in this respect, learned counsel for the applicant has drawn

attention of this Court to paragraph 36 of the bail application in which it has been stated that on 3.5.2023 the applicant went to Army Recruitment Centre, Gorakhpur for information regarding army recruitment and was returning and waiting at the bus station for catching the bus. The police has apprehended the applicant.

6. The argument of learned counsel for the applicant that once the police has arrested the applicant, it would be presumed that the arrest and recovery is false is devoid of merit. The plea of false implication is not specific. No reason has been assigned for false implication.

7. A plea of false implication has been raised by the applicant. A plea of false implication is required to be specific and factual foundation of the same is required to be laid down by accused in the pleadings. In **Ruli Ram Vs. State of Haryana, (2002) 7 SCC 691**, it has been observed by the Supreme Court that when a plea of false implication is advanced by the accused, foundation for the same has to be established. Further, in **Ram Udgar Singh Vs. State of Bihar, (2004) 10 SCC 443**, the Apex Court has held that foundation has to be laid if a plea of false implication is made. Vague allegations with regard to plea of false implication raised by accused is not permissible under law. The plea of false implication cannot be on the basis of conjectures. In **Brahm Swaroop Vs. State of U.P., (2011) 6 SCC 288**, Supreme Court has observed that a party has to lay down a factual foundation and prove by leading impeccable evidence in respect of its false implication. In the present case vague and general allegations have been made with regard to plea of false implication. The foundational fact and material particulars are absent. Such plea of false implication is not tenable.

8. In the facts and circumstances of the case, the bail application lacks merit and is, accordingly, rejected.

Order Date :- 1.12.2023

Bhaskar