

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35191 of 2023

Applicant :- Ravindra Kumar Singh @ Babloo Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ravi Chandra Srivastava, Abhishek Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and learned A.G.A. for the State-opposite party.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 37 of 2023, under Sections 8/20/25 of N.D.P.S. Act & 207 of Motor Vehicle Act, Police Station- Durgaganj, District- Bhadohi during the pendency of trial.
3. Counsel for the applicant submitted that the applicant has been falsely implicated in the instant case. False recovery of 102 kg Ganja is alleged to have occurred from two cars from a public place. There is no independent witness to the alleged recovery. The applicant was a passenger in Vehicle No. UP70 CX8350. There is nothing on record to demonstrate 'conscious possession' of the applicant. The mandatory provisions of Sections 42, 50, 51 and 52A of the N.D.P.S. Act have not been complied with. It is next contended that driver of the vehicle Saurbh Chaubey and Rahul Yadav, have been granted bail by this Court in Criminal Misc. Bail Application Nos. 43485 of 2023 and 35469 of 2023 vide orders dated 19.10.2023 and 12.10.2023 respectively. The applicant claims parity. The criminal history of the applicant has been explained in para no. 18 of the bail application. The applicant is in jail since 05.07.2023 and in case, he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record this Court prima facie finds that the mandate of Sections 42, 50, 51 and 52A of the N.D.P.S. Act has not been followed. There is no independent witness to the alleged recovery, even the sampling has not been done in the presence of Magistrate, which was

required under Section 52-A of the N.D.P.S. Act. The inventory of the recovered contraband was also not certified by the Magistrate. Although, the applicant is warranted in another case under the NDPS Act, the fact remains that in the present case, there is non-compliance of mandate of Chapter V of the NDPS Act, as such there are reasonable grounds to believe that the applicant shall not indulge himself in other case of similar nature. Identically placed co-accused, Saurbh Chaubey and Rahul Yadav, have been granted bail by this Court. Moreover, the applicant has remained confined for more than five months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Ravindra Kumar Singh @ Babloo Singh** , involved in the aforesaid case crime 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 the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence;
- (iii) shall not pressurize the prosecution witnesses.

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

Order Date :- 7.12.2023

Aditya