

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37051 of 2023

Applicant :- Narendra Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Nirbhay Singh, Yadvendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The instant bail application has been moved on behalf of the applicant with a prayer to enlarge him on bail in Case Crime No.146 of 2023, under Section 8/20 of the NDPS Act, Police Station Chaurakhas, District Kushi Nagar, during pendency of the trial.

3. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. It is also contended that the co-accused, Harshvardhan has already been enlarged on bail by this Court vide order dated 22.09.2023 passed in Criminal Misc. Bail Application No.39680 of 2023, therefore, the applicant is also entitled to be enlarged on bail on the ground of parity. It is further contended that the applicant was arrested by the police and he was asked for bribe which he denied, therefore, he has been falsely implicated in this case falsely due to non-fulfilment of alleged illegal demand. There is no compliance of mandatory provisions of the NDPS Act. There is no previous criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in

jail since 16.07.2023. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA has vehemently opposed the bail application. He argued that there is no explanation of having 109.60kg ganja which was concealed by the driver inside the truck. So far as the submission regard non-compliance of the provisions of the NDPS Act made by the counsel for the applicant is concerned, the same is incorrect and there is proper compliance of Section 52 of the NDPS Act.

5. Contradicting the claim of parity learned AGA contends that the aforesaid co-accused was neither the owner of the vehicle in question nor the alleged contraband (109.60kg ganja) was found in his possession; he was only sitting inside the truck as passenger.

6. Learned AGA contended that it is noteworthy that at the time of disposal of bail application of the co-accused, no FSL report was obtained but at present it is available on record. From the FSL report, it has been proved that the recovered contraband was ganja which is prohibited. The recovered contraband is of the commercial quantity; if the accused is released on bail he would again commit such offence. He often used to transport ganja from his truck as driver. Therefore, he is not entitled to be enlarged on bail.

7. Considering the facts and circumstances of the case, the submissions made by the rival parties, contents of the FSL report, the recovery of huge quantity of ganja from the cabin of the driver and from the possession of the applicant and the apprehension that if the accused is released on bail, he would again commit such offence, this Court is not inclined to grant bail to the applicant. This Court is also not satisfied that any

police personnel would plant recovery of contraband substance of such huge quantity upon the accused to falsely implicate him due to enmity as from perusal of the record there appears no enmity of the accused with the police. This Court is also not satisfied that there are reasonable grounds for believing that he is not guilty of the alleged offence and that if he is released on bail, he would not commit any such offence while being on bail.

8. Accordingly, the bail application is **rejected** at this stage.

Order Date :- 28.11.2023

Shahroz