

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40088 of 2023

Applicant :- Jeewan

Opposite Party :- State of U.P.

Counsel for Applicant :- Manu Sharma,Dinesh Kumar Pandey

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.266 of 2023, under Section 8/20 of the NDPS Act, Police Station Kotwali, District Maharajganj, 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. Learned counsel has stated that with regard to the alleged recovered contraband (8.548kg charas) there is no compliance of mandatory provision of Sections 50 and 52 of the NDPS Act. It is also submitted that the provisions of Section 100 CrPC have also not been followed at the time of arrest and seizure. He next contended that the sampling and preparation of docket is doubtful. It is further contended that the applicant was arrested by the police and he was asked for bribe which denied, therefore, he has been falsely implicated in this case falsely due to non-fulfilment of alleged illegal demand. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There is criminal history of four cases against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 21.05.2023. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA has vehemently opposed the bail application and submitted that from perusal of the criminal history of the applicant, he appears to be a habitual offender. So far as the question of sampling and preparation of docket is concerned, it is contended by the learned AGA that it is matter of trial not of the bail. It is also contended that total 15.960kg charas was recovered from possession of the accused persons; the investigating officer has collected credible and concrete evidence which proves involvement of the accused in the alleged offence; provisions of Sections 50 and 52 NDPS Act have fully been complied with; the police personnel tried their best to record statement of the independent witness but due to fear of the accused, none came forward to be witness; the recovered contraband is above the commercial quantity; if the accused is released on bail he would again commit the same offence. Therefore, he is not entitled to be enlarged on bail.

5. Considering the facts and circumstances of the case, the submissions made by the parties, continuity of offence by the applicant, this Court is not inclined to grant bail to the applicant. This Court is 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.

6. Accordingly, the bail application is **rejected**.

Order Date :- 18.10.2023

Shahroz