

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42172 of 2023

Applicant :- Rajan Bharti

Opposite Party :- State of U.P.

Counsel for Applicant :- Anup Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Counter affidavit filed on behalf of the State is taken on record.
2. Heard Sri Anup Kumar Pandey, learned counsel for the applicant, learned AGA for the State and perused the record.
3. By means of this bail application applicant seeks bail in Case Crime No.370 of 2023, under Sections 8/22 NDPS Act, Police Station Nichlaul, District Maharajganj, during the pendency of trial.
4. Learned counsel for the applicant has argued that it is a case under the Drugs and Cosmetics Act in which a complaint should have been filed by the inspector in the competent court under Section 18 of the Drugs and Cosmetics Act but the applicant has been challaned under Section 8/22 of the NDPS Act which is against the law. 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 04.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA has vehemently opposed the bail application submitting that it is a prohibited drug which cannot be transported or kept by any person without obtaining licence or without prescription of registered medical practitioner. However, he could not dispute the fact that the applicant has no previous criminal history against the applicant.
6. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Rajan Bharti**, 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.

8. 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 :- 1.11.2023

Shahroz