**Court No. - 44**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 43296 of 2023

**Applicant :-** Pankaj Udainiya And Another
**Opposite Party :-** State of U.P.
**Counsel for Applicant :-** Siddharth Niranjan
**Counsel for Opposite Party :-** G.A.

**Hon'ble Pankaj Bhatia,J.**

1. Heard learned counsel for the applicants as well as learned A.G.A. and perused the record.

2. In terms of the FIR, a total recovery of 6 kgs of Ganja was recovered from both the applicants. The applicants have no criminal history. Since both the applicants have no criminal history, they are entitled to be released on bail.

3. The contention of the Counsel for the applicants is that the alleged recovery is contrary and without following the mandate of Section 50 of the NDPS Act. He argues that non following the mandate of Section 50 renders the entire recovery bad in law. He further argues that the alleged recovery is less than commercial quantity. He argues that although 250 grams specified in the Scheduled of the NDPS Act, in view of the definition contained in Section 2(viia), the quantity above 250 grams will only be considered as commercial quantity. The applicants have explained their criminal history. The applicants have no criminal history under NDPS Act. The applicants are in custody since 17.8.2023.

4. Learned A.G.A. vehemently opposed the bail prayer.

5. Considering the fact that the recovery is less than commercial quantity and *prima face,* there being non-compliance of Section 50 of the NDPS Act and the applicants are in custody since 17.8.2023, I am of the view that the applicants are entitled to be released on bail.

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

7**.** Let the applicants - Pankaj Udainiya and Tarun Dixit be released on bail in Case Crime No.670 of 2023, under Sections 21/22 of the NDPS Act and Sections 411,420,467,468,471 IPC, Police Station - Kotwali Orai, District - Jalaun on their furnishing personal bonds and two reliable sureties of the like amount each to the satisfaction of the court concerned with the following conditions:

(a) The applicants shall execute a bond to undertake to attend the hearings;

(b) The applicants shall not commit any offence similar to the offence of which they are accused or suspected of the commission; and

(c) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

**Order Date :-** 6.11.2023
Irshad

Digitally signed by :-
IRSHAD AHMAD SIDDIQUI
High Court of Judicature at Allahabad