

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43411 of 2023

Applicant :- Mahipal @ Lala

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.

2. In terms of the FIR, 120 gms. of Charas was allegedly recovered from the left pocket of Kurta worn by the applicant. It is argued by counsel for the applicant that the alleged recovery is less than the 'commercial quantity' as defined under Section 2(viia) of NDPS Act, which is 1 kg in the case of Charas; the recovery is not in terms of the mandate of Section 50 NDPS Act, which renders the entire recovery bad in law. It is further argued that the criminal antecedents of the applicant has been explained in Para – 11 of the bail application and none of the cases, is under NDPS Act. The applicant is in custody since 18.08.2023.

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

4. Considering the fact that the recovery is less than commercial quantity and *prima-facie*, there is no compliance of Section 50 of NDPS Act coupled with the fact that the applicant is in custody since 18.08.2023 and has no criminal antecedent under NDPS Act, the applicant is entitled to be enlarged on bail.

5. Thus, the present application is ***allowed***.

6. Let the applicant - ***Mahipal @ Lala*** be released on bail in Case Crime No. 135 of 2023, under Section 8/20 of NDPS Act, registered at Police Station - Panwadi, District - Mahoba, on his furnishing a personal bond with two sureties of the like amount each to the satisfaction of court concerned with the following conditions:

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

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) The applicant 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 him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 6.11.2023

Irshad