

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44652 of 2023

Applicant :- Rahul Prasad @ Mohit Kumar Gond

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Kumar Sinha

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. By means of this bail application applicant seeks bail in Case Crime No.45 of 2022, under Sections 8/20/29 of the NDPS Act, Police Station Belipar, District Gorakhpur, during the pendency of trial.

3. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. Learned counsel has further stated that the alleged recovered ganja is below the commercial quantity. It is also contended that there is no compliance of mandatory provisions of the NDPS Act. There is no chemical analysis report to corroborate the prosecution version. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There is no previous criminal history of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 16.04.2022. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA has vehemently opposed the bail application but he could not dispute the submissions advanced by the counsel for the applicant.

5. 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 allowed.

6. Let the applicant - **Rahul Prasad @ Mohit Kumar Gond**,

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;

(iv) shall appear before the police commissioner of the concerned police station to show or establish his bona fide on any day of the first week of every month who shall prepare a chart of appearance which would be retained by the concerned police commissioner and also a copy of which would also be available with the accused, until further order of the trial court.

7. 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 :- 2.12.2023

Shahroz