

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44808 of 2023

Applicant :- Om Singh And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Shyam Lal, Abhilasha Singh, Ashutosh Yadav, Dinesh Kumar Bhaskar

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Counter affidavit filed today is taken on record. Heard Ms. Abhilasha Singh learned counsel for the applicants, learned AGA for the State-opposite party and perused the record.
2. The instant bail application has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 389 of 2023, under Section 8/ 20 N.D.P.S. Act, Police Station- Crossing Republic, District- Ghaziabad, during the pendency of trial.
3. Counsel for the applicant submitted that the applicants have been falsely implicated in the instant case. False recovery of 31.5 k.g. 'Ganja' has been shown from the joint possession of the applicants. There is no independent witness to the alleged recovery. The mandatory provisions of N.D.P.S. Act have not been complied with. There is no F.S.L. report to establish that the substance recovered is Ganja'. The applicants are real brothers and is quite improbable that they would do the aforesaid crime together. There is no previous criminal history of the applicant Goving, however, one case criminal history has been shown against applicant Om Singh which has been explained in para 2 of the supplementary affidavit. The applicants are in jail since 22.09.2023, in case, they are enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having regard to the submissions made above and the fact that the applicants have remained confined for more than two months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has

been brought to the fore by the State that the applicants, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let the applicants **Om Singh** and **Govind**, involved in the aforesaid case crime be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

- (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.

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 :- 5.12.2023

S.Verma