

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46493 of 2023

Applicant :- Nadeem

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Prakash Singh Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The FIR in question was lodged alleging recovery of 500 gm of Dizapam powder from the right hand of the applicant. Contention of counsel for the applicant is that the alleged recovery cannot be termed as commercial quantity in view of the definition of 'commercial quantity' contained in Section 2(viia) of NDPS Act. He further argues that there is a clear non-compliance of provisions of Section 50 of NDPS Act, which is mandatory to be followed. The criminal antecedents of the applicant have been explained in Para - 12 and none of the offences against the applicant is under the NDPS Act.

3. Learned AGA has opposed the bail application.

4. Considering the fact that the recovery is less than the commercial quantity specified in the notification, in view of the definition of 'commercial quantity' under Section 2(viia) of the NDPS Act, the applicant, who has no criminal antecedent, is entitled to be enlarged on bail. In view thereof, the application is ***allowed.***

5. Let the applicant ***Nadeem*** be released on bail in FIR No.310 of 2023, under Section 8/22 of NDPS Act, P.S. Ganjdundwara, District Kasganj (Kashi Ram Nagar) 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 :- 2.11.2023

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