

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46697 of 2023

Applicant :- Pappi Gautam

Opposite Party :- State of U.P.

Counsel for Applicant :- Arjit Srivastava, Usha Srivastava, Vinod Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Supplementary Affidavit filed in court is taken on record.
2. Heard learned counsel for the applicant, learned AGA and perused the record.
3. The accused-applicant seeks bail in Case Crime No.231 of 2023 under sections 8/20 NDPS Act, P.S. Kadrigate, District Farrukhabad.
4. In terms of the FIR, on a search being carried out from a bag carried by the applicant, allegedly one kilogram ten grams of Charas and one kilogram one twenty grams of Ganja was found in a bag, from which samples were drawn. It was further stated that the Ganja was allegedly kept in 92 small packets of six grams each and three packets of twenty four grams each, total 950 grams. Based upon the said, the applicant was arrested with the offence in question.
5. The contention of the counsel for the applicant is that prior to the offence in question, the applicant was apprehended by the police authorities in case crime no.0228 of 2023 alleging that the applicant has projected the police authorities in a bad light on the social media.
6. The counsel for the applicant argues that based upon the said allegation that the applicant making certain video viral regarding the working of the police authorities, the police authorities were not happy with the applicant and has falsely roped in the present case. He further argues that as per the FIR itself, there were no independent witnesses to the search, the mandate of section 50 of the NDPS Act was also not complied with and the manner in which the sampling was done was also contrary to the mandate of section 52-A of the NDPS Act. The applicant has disclosed the criminal antecedents in para 11 in which three cases against the

applicant are under the NDPS Act which are of the year 2012.

7. Learned AGA opposes the bail application by arguing that the recovery is more than the commercial quantity in the case of Charas although less than the commercial quantity in the case of Ganja, as such, the test of section 37 has to be satisfied.

8. Considering the submissions made the bar, on perusal of the documents filed along with the supplementary affidavit, it is clearly revealed that the applicant was apprehended in case crime no.0228 of 2023 and immediately after two days, the applicant has been implicated with the offence in question.

9. From the perusal of the FIR, it is clear that the recovery was not effected in the presence of any independent witness, prima faice, the mandate of section 50 of the NDPS Act has not been followed and even the guidelines which were required and elaborated by the Supreme Court in the case of ***Ranjan Kumar Chadha vs. State of Himanchal Pradesh Criminal Appeal No.2239-2240 of 2011 decided on 06.10.2023*** have not been complied with, as such, based upon the said recovery prima-facie a view can be formed that the applicant may not be held guilty. As regards the criminal antecedents, three cases against the applicant are of the year 2012, as such, the reasons can be formed that the applicant is being implicated with the offence in question, as such, the applicant who is in custody since 22.09.2023 is entitled to be enlarged on bail. Thus the bail application is allowed.

10. Let the applicant ***Pappi Gautam*** be released on bail in aforesaid first information report number subject to his furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the 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 :- 9.11.2023

VNP/-