

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 56478 of 2022

Applicant :- Virat Singh @ Munna

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudhakar Shukla, Ravitendra Pratap Singh Chandel

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.385 of 2022, under Sections 8/20/60/37 of the NDPS Act, Police Station Sikandra, District Agra, during the pendency of trial.

3. Learned counsel for the applicant has argued that the applicant is innocent and he has been falsely implicated in the present case on the basis of a false recovery memo. The applicant has no concern with the alleged recovered drug or ganja. The applicant is neither owner nor driver of the alleged vehicle. The co-accused, Somnath was driver of the alleged vehicle. The applicant had been lifted three days earlier when he was at Agra in connection of attending the case at Agra and had been implanted in the alleged false recovery. In this case sampling has been made in violation of Standing Order/Instruction No.1 of 1989 dated 13.06.1989 issued by the Government of India under Section 52A of NDPS Act. The guidelines and rules with regard to Sections 41, 42, 43 and 50 of the NDPS Act have not been followed. There is no independent or public witness of the alleged recovered ganja. It is further contended that there is criminal history of three cases against the applicant which has been explained in paragraph-15 of the affidavit filed in support of the bail application. It is also contended that virtually it is not a case of recovery of ganja above the commercial quantity but it is a case of false implication on account of enmity with his enemy in connivance with the police.

4. By way of supplementary affidavit the applicant has produced letter dated 07.06.2022 by Krishna Devi (mother of the applicant) wife of Jainendra resident of District Ara, Bihar

to the Chief Minister, Uttar Pradesh Shashan that she had reached Agra for his surrender in another case. When she came out of the court premises, 4-5 persons reached and took away his son in a white colour vehicle. When she asked, they disclosed themselves to be policemen. There is a possibility that her son would be falsely implicated in some false case. Another letter was also sent by Smt. Krishna Devi mother of the accused applicant to Human Rights Commission, Delhi on the same day. In this case the impugned recovery has been shown to be made on 09.06.2022. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 23.08.2022. In case the applicant is enlarged on bail, he will not misuse the said liberty.

5. On the basis of above facts, it has been argued by the learned counsel for the applicant that it is very much clear that the applicant was falsely implicated in the present case.

6. An opportunity was provided to the learned AGA to file counter affidavit/objection and to ensure that the aforesaid two letters regarding kidnapping/abduction of the applicant by the policemen were actually sent by his mother on 07.06.2022 or not but in this regard no adverse report has been submitted.

7. In this case two unknown advocates appeared and started to oppose this bail application. When they were asked about their locus, they left the podium and returned back. Learned AGA also contends that it is a State case and the private counsel has no locus to oppose the bail application. It is also argued by the learned counsel for the applicant that from the appearance of two unknown advocates in this case, it is very much clear that the rivals of the accused applicant are behind his false implication on account of enmity.

8. Learned AGA has vehemently opposed the bail application and contends that considering the recovery of such huge quantity of contraband substance and criminal history of the accused, the bail application be rejected.

9. Contrary to that learned counsel for the applicant contended that the previous criminal history of the applicant has been properly explained and from the above facts it is fully established that the alleged recovery is false and incorrect in the eyes of law. The applicant was forcefully taken away by the police on 06.06.2022 (afternoon) and thereafter he never returned to her mother and on 09.06.2022, recovery of such huge quantity of contraband was planted against the applicant.

10. Having regard to the peculiar facts of this case,

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 is allowed.

11. Let the applicant - **Virat Singh @ Munna**, 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.

12. 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 :- 28.10.2023

Shahroz