

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48825 of 2023

Applicant :- Manoj Singh And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Sri Neeraj Kumar Sharma, learned A.G.A. for the State, submits that the instructions have been received and he has no objection in case the bail application is decided on merits.
2. Heard learned counsel for the applicants and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicants on bail in Case Crime No. 400 of 2023, under Section 8/20 of the Narcotic Drugs and Psychotropic Substances Act, Police Station Koraon, District Prayagraj during the pendency of trial.
4. Learned counsel for the applicants contends that the applicants have been falsely implicated in the instant case. False recovery of 11.400 kg Ganja has been shown from the joint possession of the applicants. There is no independent witness to the alleged recovery. The mandatory provisions of Sections 42, 50, 51 and Section 52-A of the N.D.P.S. Act have not been complied with. There is no FSL report to establish that the substance recovered is Ganja. The recovered contraband is below the commercial quantity. The applicants are in jail since 15.10.2023 having no criminal history and in case they are enlarged on bail, they will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that mandate of Sections 42, 50, 51 and Section 52-A of the N.D.P.S. Act has not been followed. There is no independent witness to the alleged recovery.

The recovered contraband is below commercial quantity. The applicants have no criminal antecedents. Moreover, the applicants have remained confined for almost one and half 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

7. Let the applicants- Manoj Singh and Rinku Singh alias Amar Bahadur, involved in the aforesaid case, be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of 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; and,
- (iii) shall not pressurize the prosecution witnesses.

8. 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 :- 1.12.2023

SKT/-