

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49815 of 2023

Applicant :- Rakesh Kashyap

Opposite Party :- State of U.P.

Counsel for Applicant :- Anurag Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Anurag Kumar Pandey, learned counsel for the applicant as well as Sri Arun Kumar Mishra, learned AGA for the State and perused the material placed on record.
3. By means of the present application, the applicant seeks bail in Case Crime No. 348 of 2023, under Sections 8/18/29(1) of Narcotic Drugs and Psychotropic Substances Act, 1985 Police Station Cantt., District Bareilly, during the pendency of trial.
4. As per the prosecution story, on the information of the squealer, police raided the place and found six persons selling and purchasing illegal opium on 20.09.2023. It was observed by the police that three persons were involved in selling opium while other three were busy in purchasing it. One of the accused person Ashok is said to have run away from the scene of occurrence. The said contraband of 2.680 Kg of Opium was recovered from the accused Mahesh Pal which was carried by him in a black colour polythene.
5. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. No incriminating article has been recovered from the possession of the applicant. There is no independent witness to support the prosecution version. There is no chemical analyst report which indicates that the alleged recovery is a contraband article. There is no compliance of Section 52-A of NDPS Act. Nothing has been recovered from the possession of the applicant. The applicant is languishing in jail since 21.09.2023 having no criminal history to his credit deserves, to be released on bail. In case, the applicant is released on bail he will not misuse the liberty of bail and shall cooperate with trial.
6. Per contra, learned A.G.A. has vehemently opposed the bail prayer of the applicant.
7. Upon hearing learned counsel for the parties, perusal of record and considering the complicity of accused, severity of punishment as well as totality of facts and circumstances, at this stage without commenting on the merits of the case, I find it a fit case for bail. The bail application is allowed.
8. Let the applicant- **Rakesh Kashyap**, who is involved in the aforementioned

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 following conditions. Further, before issuing the release order, the sureties be verified.

i. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

ii. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

iii. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 30.11.2023

Siddhant