Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49885 of 2023

Applicant :- Tuntun Patel
Opposite Party :- State of U.P.
Counsel for Applicant :- Dharmendra Kumar
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Dharmendra Kumar, learned counsel for the applicant, Sri Anjani Kumar, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No.246 of 2023, under Section 8/20 of The Narcotic Drugs And Psychotropic Substances Act, 1985, Police Station- Pataherwa, District Kushi Nagar, during the pendency of trial.

4. As per the allegations of the FIR, the applicant is said to have been apprehended by the police on 28.08.2023 and 17.650 kg of ganja is said to have been recovered from his possession.

5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. Learned counsel for the applicant has stated that the said contraband is below commercial quantity and there is no compliance of mandatory provision of Section 52(A) of the N.D.P.S. Act. There is no FSL report to suggest that said contraband is ganja.

6. Learned A.G.A. has vehemently opposed the bail application on the ground that the recovery of the contraband article is just below commercial quantity and there is compliance of Section 50 of the NDPS Act.

7. Learned counsel for the applicant has stated that applicant has no criminal history. The applicant is languishing in jail since 28.08.2023. In case, the applicant is released on bail, he will not

misuse the liberty of bail.

8. 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.

9. Let the applicant- Tuntun Patel, who is involved in aforementioned case 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 evidence.
(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

11. 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.

Order Date :- 30.11.2023
Priya

Digitally signed by :-
PRIYA KUSHWAHA
High Court of Judicature at Allahabad