

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50207 of 2023

Applicant :- Ramesh Chandra Suman

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Singh Yadava

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Rakesh Singh Yadava, learned counsel for the applicant, Ms. Ifrah Islam, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.255 of 2023, under Section 8/20 of The Narcotic Drugs And Psychotropic Substances Act, 1985, Police Station- Fefna, District- Ballia, during the pendency of trial.
4. As per the allegations of the FIR, 2 kg. 50 grams of Ganja is said to have been recovered from the possession of the applicant in the intervening night of 6/7.10.2023.
5. Learned counsel for the applicant has argued that he 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 has stated that there is no compliance of mandatory provision of Section 50 & 52-A of the N.D.P.S. Act. The contraband is below the commercial quantity rather it is small quantity. There is no FSL report that the said contraband is Ganja. Learned counsel has further stated that the criminal history of one case assigned to the applicant stands explained in paragraph-13 of the affidavit filed with the bail application. The applicant is languishing in jail since 7.10.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.
6. Learned A.G.A. has vehemently opposed the bail application.
7. In **Arif Khan @ Agha Khan v. State of Uttarakhand (2018) 18 SCC 380**, in which the Apex Court held that Section 50 of the NDPS Act mandatorily required search of the suspect/accused to be carried out in the presence of a magistrate or Gazetted officer, even if such a suspect/accused had waived

the right to be taken to a magistrate or Gazetted Officer.

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- **Ramesh Chandra Suman**, 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 :- 1.12.2023

Vikas

[Krishan Pahal, J.]