

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53568 of 2023

Applicant :- Alok

Opposite Party :- State of U.P.

Counsel for Applicant :- Vineet Singh Parmar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and perused the record.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 325 of 2023, under Sections 8/21/60(3) N.D.P.S., Police Station- Sarsawan, District- Saharanpur during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of 100 gm. smack has been shown from a motorcycle which does not belong to the applicant. There is no independent witness to the alleged recovery. The recovered contraband is below the commercial quantity. The mandatory provisions of Section 42, 50 and 51 of N.D.P.S. have not been complied with. There is no F.S.L. report to establish that the substance recovered is 'smack'. The applicant has no criminal history to his credit. The applicant is in jail since 10.11.2023. In case, he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that there is no independent witness to the alleged recovery. The recovered substance is below the commercial quantity. The mandatory provisions of Section 42, 50 and 51 of N.D.P.S. have not been complied with. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than one month and after submission of the charge-sheet there is no hope of early conclusion of trial, and no reasonable apprehension has been brought to the fore by the State that the applicant, 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 applicant is entitled to be enlarged on bail.

6. Let the applicant, **Alok** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. 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 :- 14.12.2023
S.S.