

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53143 of 2023

Applicant :- Khata Putil And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Dhirendra Bahadur Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicants and Sri V.P. Tripathi, learned A.G.A. for the State.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 692 of 2023, under Section 8/20 N.D.P.S. Act, Police Station- G.R.P., District- Jhansi during pendency of the trial.
3. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. False recovery of 5.167 kg. Ganja has been shown from the applicant no.1 and 4.137 kg. Ganja has been shown from the applicant no.2. There is no independent witness to the alleged recovery. The recovered contrabands are 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 are 'Ganja'. The applicants are in jail since 18.10.2023 having no criminal history. In case they are enlarged on bail, they will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. The recovered contrabands are below the commercial quantity. The mandatory provisions of Section 42, 50 and 51 of N.D.P.S. have not been complied with. The applicants have no criminal antecedents. Further the applicants have presently remained confined for more than one month and 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 intimidate the witness, without

commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let the applicants, **Khata Putil** and **Rashmi Putil** involved in the aforesaid case be released on bail on their 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 applicants shall not tamper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants 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 :- 12.12.2023
S.S.