

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6432 of 2023

Applicant :- Kuldeep @ Monu

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Ashish Raman Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri Ashish Raman Mishra, learned counsel for the applicant, Shri G.D. Bhatt, learned AGA-I for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.96 of 2023, under Section 8/20 NDPS Act, Police Station Fakharpur, District Bahraich.

3. It is contended by learned counsel for the applicant that 41 kg. of Ganja is shown in the boot space (dikki) of the four wheeler vehicle in which the applicant and other three persons were sitting. It is submitted that the co-accused Ram Manohar Yadav and Budhsagar Mishra, having similar role have been granted bail by this Court in Criminal Misc. Bail Application Nos.6209 of 2023 and 6401 of 2023 in which detail orders have been passed on 28.10.2023 and 17.11.2023 respectively. He contended that the case of the applicant is at par with the case of co-accused Ram Manohar Yadav and Budhsagar Mishra and he is also pressing the same grounds as has been advanced in the case of co-accused. It is further submitted that the applicant has no criminal history and is languishing in jail since 28.03.2023.

4. Learned AGA opposed the prayer for bail but could not dispute the fact that the case of the applicant is at par with the co-accused Ram Manohar Yadav and Budhsagar Mishra, who have been granted bail.

5. Considering over all facts and circumstances of the case, argument that the case of the applicant is at par with the co-accused Ram Manohar Yadav and Budhsagar Mishra, who have been granted bail; argument that applicant is not having any criminal history, the satisfaction as required, twin conditions contained under Section 37 of the NDPS Act stands satisfied, in the considered opinion of this Court, it is a fit case for grant of bail.

6. Let the applicant, **Kuldeep @ Monu** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that

he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

7. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 20.11.2023

Pks