

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14251 of 2023

Applicant :- Satish Yadav

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

Counsel for Applicant :- Abhishek Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Abhishek Srivastava, the learned counsel for the applicant, Sri Mukesh Singh, the learned A.G.A. for the State and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 515 of 2023, under Sections 8/21 N.D.P.S. Act, 1985, registered at Police Station Tandiyawan, District Hardoi.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 07.10.2023 against the applicant and one Avnish Kumar stating that the accused persons were apprehended on the basis of an information received from a mukhbir and it is stated that they confessed having some intoxicating powder and that they had made some person consume the intoxicating powder and had stolen the tractor and trolley from him. The F.I.R. states that the applicant's search was conducted by a Circle Officer. 105 grams alprazolam was found from his possession. The F.I.R. states that a sample of the substance weighing 8 grams was taken for being tested.
4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history. It

has further been stated in the affidavit filed in support of the bail application that the police had apprehended the applicant from a neighboring village at 12.30 p.m. on 06.10.2023 which incident was videographed by some person and a compact disc containing a video of the incident of applicant being taken away by the police has been annexed with the affidavit also.

5. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the allegation of the applicant being apprehended and intoxicating substance being found from his possession is belied with the support of a video of the applicant being taken away by the police; that the alleged recovery has been made by the police officer and not in presence of a Magistrate or any independent gazetted officer; that as per the F.I.R. a single sample of the substance recovered has been drawn and that too has not been drawn in presence of Magistrate; that the applicant has no previous criminal history and he is languishing in jail since 08.10.2023 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

7. Accordingly, this bail application stands **allowed**.

8. Let the **applicant**-Satish Yadav be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 4.12.2023
Ram.