

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14220 of 2023

Applicant :- Narendra Kumar Sharma

Opposite Party :- State Of U.P. Thru. Prin. Secy. (Home) Civil Sectt. Lko

Counsel for Applicant :- Nisha Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Ms Nisha Srivastava learned counsel for the applicant, Sri Hans Raj Verma, 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. 283 of 2023, under Sections 8/21 N.D.P.S. Act, registered at Police Station Kursi, District Barabanki.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 28.09.2023 alleging that on the basis of information received from a mukhbir the police apprehended the applicant and he confessed having morphine in his possession. The search of the applicant was carried out by the Circle Officer, who found that he was carrying 110 grams morphine, which included the paper and polythene in which the substance was packed.
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 previous criminal history.
5. The learned A.G.A. has opposed the prayer for bail and on the basis of instructions, he has submitted that the substance recovered has been found to be heroine in its chemical analysis.
6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant was not told about his right to get himself searched in presence of a Gazetted Officer or Magistrate; the search has been conducted by the police officer; the sample of the substance recovered has also not been drawn in accordance with the provisions contained in Section 52-A of N.D.P.S Act; the quantity of the

substance recovered is below the minimum prescribed commercial quantity 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-**Narendra Kumar Sharma** 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.

Order Date :- 4.12.2023

Renu/-