



2026:AHC:210805

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 35955 of 2026

Shri Shailesh Kumar Yadav

.....Applicant(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Budhi Sagar Tripathi
Counsel for Opposite Party(s)	:	Dhananjay Awasthi, G.A.

Court No. - 68

HON'BLE KRISHAN PAHAL, J.

1. List has been revised.
2. Heard Sri Sunil Kumar Upadhyay, Advocate holding brief of Sri Budhi Sagar Tripathi, learned counsel for the applicant, Sri Dhananjay Awasthi, learned counsel for Union of India and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.Nil/2026, under Section 8/20/23 of The Narcotic Drugs And Psychotropic Substances Act, 1985, Police Station-Custom Airport Babatpur, District Varanasi, during the pendency of trial.
4. Learned counsel for the applicant has argued that 3.721 kilograms of ganja is said to have been recovered from the possession of the applicant, which is below the commercial quantity. Even the applicant did not have the keys to the bag, which was broken open by the staff of the department. The applicant himself has been forced and fooled by the other co-accused persons. There is no criminal history of the applicant. The applicant is languishing in jail since 02.08.2026. In case, the applicant is released on bail, he will not misuse the liberty of bail.
5. Per contra, learned counsel for the Union of India has vehemently opposed the bail application on the ground that the contraband recovered from the applicant is hydroponic weed, which is stated to be more potent than conventional cannabis. It is further submitted that the applicant was travelling by air and, therefore, could not have carried a larger quantity of

the said contraband. Learned counsel has further submitted that persons indulging in such activities are required to be dealt with a strong hand. Hence, the applicant is not entitled to bail.

6. Reiterating the aforesaid view the Supreme Court in the case of **Manish Sisodia vs. Directorate of Enforcement, 2024 INSC 595** has again emphasised that the very well-settled principle of law that bail is not to be withheld as a punishment is not to be forgotten. It is high time that the Courts should recognize the principle that "*bail is a rule and jail is an exception*".

7. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration the fact that the recovered contraband is below the commercial quantity and the rigours of Section 37 of the N.D.P.S. Act do not apply to the instant case, and without expressing any opinion on the merits of the case, *prima-facie* the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

8. Let the applicant- **Shri Shailesh Kumar Yadav**, be released on bail in the aforementioned case crime on furnishing a personal bond and two sureties to the satisfaction of the court concerned, subject to verification of sureties, with the conditions that he shall not tamper with evidence or intimidate witnesses and shall appear before the trial court as required.

9. Breach of any condition shall entail cancellation of bail. The observations herein shall not affect the trial on merits.

(Krishan Pahal,J.)

October 8, 2026

(Ravi Kant)