HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

CRIMINAL MISC. BAIL APPLICATION No. - 4070 of 2026

Jitendra Tiwari @ Jitu

.....Applicant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Opposite Party(s)

Counsel for Applicant(s)	:	O.P. Tiwari, Ashish Shukla
Counsel for Opposite Party(s)	:	G.A.

Court No. - 11

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Sri Ashish Shukla, learned counsel for the applicant, Sri Hari Prasad Maurya, learned Additional Government Advocate 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. 215 of 2026, under Sections 8/20 N.D.P.S. Act, registered at Police Station Kotwali, District Unnao.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged by a Sub Inspector of Police on 12.04.2026 against the applicant and another person Adarsh Kumar Tiwari @ Raj stating that during checking the accused persons were apprehended at a railway crossing while they were sitting in a car. Twenty five packets weighing 2 kg. each were found from the car. The F.I.R. states that five bundles of four packets each and one bundle of five packets were prepared and sealed in white clothes.

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.

5. The learned Additional Government Advocate appearing on behalf of the State has opposed the prayer for bail and he has submitted that in chemical examination the substance recovered has been found to be ganja. However, the case diary reveals that six samples weighing 49.5 gms., 497 gms., 49.3 gms., 49.8 gms., 49.9 gms. and 49.3 gms. were sent for forensic examination.

6. Rules 9, 10 and 11 of the Narcotic Drugs and Psychotropic Substances (Seizure, Storage, Sampling and Disposal) Rules, 2022 provides as follows:

> *"9. Samples to be drawn in the presence of Magistrate.—After application to the Magistrate under sub-section (2) of Section 52-A*

of the Act is made, the Investigating Officer shall ensure that samples of the seized material are drawn in the presence of the Magistrate and the same is certified by the magistrate in accordance with the provisions of the said-sub-section.

10. Drawing the samples.—(1) One sample, in duplicate, shall be drawn from each package and container seized.

(2) When the packages and containers seized together are of identical size and weight bearing identical marking and the contents of each package give identical results on colour test by the drugs identification kit, conclusively indicating that the packages are identical in all respects, the packages and containers may carefully be bunched in lots of not more than ten packages or containers, and for each such lot of packages and containers, one sample, in duplicate, shall be drawn:

Provided that in the case of ganja, poppy straw and hashish (charas) it may be bunched in lots of not more than forty packages or containers.

(3) In case of drawing sample from a particular lot, it shall be ensured that representative sample in equal quantity is taken from each package or container of that lot and mixed together to make a composite whole from which the samples are drawn for that lot.

11. Quantity to be drawn for sampling.—(1) Except in cases of opium, ganja and charas (hashish), where a quantity of not less than twenty-four grams shall be drawn for each sample, in all other cases not less than five grams shall be drawn for each sample and the same quantity shall be taken for the duplicate sample.

(2) The seized substances in the packages or containers shall be well mixed to make it homogeneous and representative before the sample, in duplicate, is drawn.

(3) In case where seized quantities is less than that required for sampling, the whole of the seized quantity may be sent."

7. The record reveals that although 25 packages are said to have been recovered from the car and as per Rule 10 a total of 50 samples were required to be drawn, merely six samples have been drawn. Samples have not been drawn in presence of the Magistrate.

8. In these circumstances, prima facie it appears that the prosecution has

committed an irregularity in collection and testing of samples which appears to be weakening the prosecution case.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact the applicant has no previous criminal history and he is languishing in jail since 11.04.2026 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.

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

11. Let the **applicant-Jitendra Tiwari alias Jitu** 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, unless his appearance is exempted by the learned trial court.

June 16, 2026
Ram.

(Subhash Vidyarthi,J.)

Digitally signed by :-
RAM SINGH
High Court of Judicature at Allahabad,
Lucknow Bench