**Court No. - 93**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 46871 of 2020

**Applicant :-** Mustkeem Ansari
**Opposite Party :-** State of U.P.
**Counsel for Applicant :-** Ashish Dwivedi
**Counsel for Opposite Party :-** G.A.

**Hon'ble Shamim Ahmed,J.**

Heard learned counsel for the applicant and learned A.G.A. Perused the record.

This application has been filed seeking the release of the applicant on bail in Case Crime No. 186 2020, under Section 8/21 N.D.P.S. Act, P.S. Visharatganj, District Bareilly.

Submission of learned counsel for the applicant is that the quantity of the contraband shown to be recovered from the possession of the applicant is 50 gram Smack which is said to be below commercial quantity. The contention is that the police has deliberately shown the amount exaggeratedly just in order to add to the gravity of the offence. It has also been pointed out that the applicant is jail since 30.09.2020. Other submissions assailing the the truthfulness of the prosecution story with regard to the recovery have also been made. Further contention is that the statutory provisions of the Narcotic Drugs and Psychotropic Substances Act, 1985 have not been complied with in true letter and spirit, and therefore, the legal sanctity of the alleged recovery stands vitiated. The counsel has also tried to demonstrate the circumstances indicating the false implication of the applicant. Malice behind the prosecution has also been pleaded during the course of the arguments placed on behalf of the accused.

Learned A.G.A. opposed the prayer for bail.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence and larger

mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of ***Dataram Singh vs. State of UP and another, reported in (2018) 3 SCC 22,*** this Court is of the view that the applicant may be enlarged on bail.

Let the applicant- Mustkeem Ansari involved in Case Crime No. 186 2020, under Section 8/21 N.D.P.S. Act, P.S. Visharatganj, District Bareilly be released on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

(1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.
(2) The applicant will personally appear on each and every date fixed in the court below and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.
(3) The applicant shall cooperate in the trial sincerely without seeking any adjournment.
(4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(5)The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.
(6) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

It may be observed that in the event of any breach of the aforesaid conditions, the court below shall be at liberty to proceed for the cancellation of applicant's bail.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of the bail application and must not be construed to have any reflection on the ultimate merits of the case.

**Order Date :-** 18.12.2020
Monika