

**Court No. - 81**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 36555 of 2022

**Applicant :-** Pooran Lal Urf Nekasu

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Istiyaq Ali, Ali Hasan

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mohd. Azhar Husain Idrisi, J.**

Heard learned counsel for the applicant as well as learned AGA for the State and perused the material placed on record.

The instant bail application has been filed on behalf of the applicant with a prayer to admit him on bail in Case Crime No. 253 of 2022, under Section 8/18 of N.D.P.S. Act, Police Station Sirauli, District Bareilly during the pendency of trial.

Submission of learned counsel for the applicant is that 2 Kg. and 376 Grams Afeem (Opium) has been recovered from the inside of Bolero car in which the applicant and other co-accused persons were riding. There is no chemical analyst report of Forensic Science Laboratory on record to prove that the alleged recovered material is Afeem (Opium). There is also no independent witness of the alleged recovery. He added that the aforesaid contraband substance is less than the commercial quantity. Further submission is that the arresting officer has not complied the mandatory provisions of Sections 41, 42, 50 and 52 of NDPS Act. It is pointed out that co-accused Akhilesh has already been granted bail by the co-ordinate Bench of this Court vide order dated 23.9.2022 passed in Criminal Misc. Bail Application No. 37164 of 2022. The applicant is languishing in jail since 18.7.2022. There are scanty chances of his fleeing away from the judicial process and tampering the prosecution evidence. In case the applicant is released on bail, he will not misuse the liberty of bail.

Learned AGA for the State opposed the bail application but could not satisfactorily dispute the aforesaid submissions as argued on behalf of the applicant.

The points pertaining to nature of accusation, severity of punishment, reasonable apprehension of tampering the witnesses, prima facie, satisfaction regarding proposed evidence and genuineness of the prosecution case were duly considered.

Without expressing any opinion on the merits, let the applicant

Pooran Lal Urf Nekasu involved in aforesaid crime be released on bail on furnishing a personal bond of Rs. 50,000/- and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 30.9.2022**

M. Tarik