

Court No. - 92

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48910 of 2022

Applicant :- Munnad Ali

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No.349 of 2022, under Section 8/22 NDPS Act, Police Station- Chhibramau, District- Kannauj.

As per the prosecution story, the police personnel arrested the applicant and recovered 460 Grams Diazepam from his possession.

Learned counsel for the applicant has submitted that the applicant is innocent person and has falsely been implicated in the present case due to ulterior motive. It is submitted that the alleged recovery of diazepam is below the commercial quantity. It is further submitted that there was no independent or public witness to prove the alleged recovery. The mandatory provisions contained under Section 50 of the N.D.P.S. Act have not been complied with. It is further submitted that except the present case the applicant has no previous criminal history to his credit which have been explained in para 12 of the affidavit to the bail application. It is also submitted that there is no apprehension that after being released on bail, the applicant may flee from the course of law or may, otherwise, misuse the liberty of bail. It is further submitted that the applicant is languishing in jail since 28.06.2022 and the possibility of conclusion of trial in near future is very bleak.

On the other hand, learned A.G.A. has opposed the prayer for grant of bail, but he has not disputed the above contention made by the learned counsel for the accused-applicant.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties without expressing any opinion on the merit of the case, I find it

to be a fit case for granting bail.

Let the applicant- **Munnad Ali** be released on bail in the aforesaid case on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 30.11.2022

SK Goswami