

**Court No. - 87**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 26325 of 2025

**Applicant :-** Deepak Kumar Bind

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

**Counsel for Applicant :-** Krishna Nand Singh, Priti Yadav

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

**Hon'ble Avnish Saxena, J.**

1. The present bail application has been moved by the **applicant-accused Deepak Kumar Bindh** for the offence punishable under Sections 8/20 of N.D.P.S. Act in Case Crime No. 97 of 2025, Police Station- Lalganj, District-Mirzapur.

2. Mr. Krishna Nand Singh, learned advocate, appears on behalf of applicant and submits that the accused-applicant has been falsely implicated in the present case, wherein 22.705 kgs of Ganja has been recovered from the possession of the accused-applicant. The arrest and recovery of the accused has not been made in the presence of independent witness. The mandatory provision of N.D.P.S. Act has not been complied. There is no role assigned to the accused-applicant except that he was pillion rider of one of the scooty and on being apprehended by the police, the accused applicant sprinted away. No incriminating contraband has been recovered from the possession of the accused-applicant. The applicant is languishing in jail since June, 2025. As such, he prays that the accused/applicant be enlarged on bail.

3. *Per contra*, learned AGA opposed the bail and submits that charge sheet is submitted against the accused-applicant. Though concedes that there is no specific role assigned to the accused-applicant except that he was pillion driver of one of the scooty. The aforesaid contraband is above commercial quantity.

4. Taken into consideration the rival submissions made by the parties and perused the record.

5. It is settled position of law that bail is the rule and committal to

jail is an exception as propounded in the case of **State of Rajasthan Vs. Balchand @ Baliay (1977) 4 SCC 308**, the Apex Court observed that refusal of bail is a restriction on the personal liberty of the individual guaranteed under Article 21 of the Constitution and opined para 2 "The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the court. We do. not intend to be exhaustive but only illustrative." and considering the facts of the case and keeping in mind, the ratio of the Apex Court's judgment in the case of **Gudikanti Narasimhulu And Ors vs Public Prosecutor, High Court Of Andhra Pradesh, (1978) 1 SCC 240** larger mandate of Article 21 of the constitution of India, the nature of accusations, the nature of evidence in support thereof, the severity of punishment which conviction will entail, the character of the accused-applicant, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interest of the public/ State and other circumstances, but without expressing any opinion on the merits, I am of the view that it is a fit case for grant of bail.

6. In the case of **Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) [(2023) 18 SCC 166]** the Apex Court observed and held that the rigour under Section 37 of N.D.P.S. Act would not come in the way, when the Court deals with the liberty of a person, as more the rigour, quicker ought to be the adjudication.

7. The perusal of the records reveals that the accused applicant has been named in the FIR. The charge sheet is submitted. The name of the accused has been figured out from the statement of co-accused, who have been arrested by the police, driving two scooty from where 22.705 kgs. of Ganja has been recovered. There is no independent witness of arrest and recovery. No specific role has been assigned to accused-applicant except that he was pillion rider of one of the scooty on being apprehended by the police, the accused-applicant sprinted away. The applicant is languishing in jail since June 2025. Without touching the merit of the case, this bail application is **allowed**.

8. Let the accused applicant be enlarged on bail subject to furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

**Order Date :-** 31.7.2025

Abhishek Sri.

**(Avnish Saxena,J.)**