

Court No. - 28

Case :- BAIL No. - 9839 of 2021

Applicant :- Ravi Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Kumar Kanaujia

Counsel for Opposite Party :- G.A.

Hon'ble Jaspreet Singh,J.

Heard the learned counsel for the applicant and the learned AGA for the State-respondent.

The submission of the learned counsel for the applicant is that the applicant is innocent and has been falsely implicated in the present case. It has been further stated that the recovery of 95 gram Alprazolem Powder was recovered from the possession of the applicant which is less than commercial quantity in terms of the NDPS Act. It is further submitted that the police has not complied the procedure for search as mentioned under Sections 42 and 50 of NDPS Act. It is also submitted that the applicant is in jail since 06.08.2021. The applicant has criminal history of one case in which he was on bail.

Learned A.G.A. has opposed the prayer for bail, however, could not dispute the aforesaid facts.

Considering the rival submissions, the facts and circumstances of the case and the material available on record as well as considering the nature of allegations and accusation against the applicant, the severity of the punishment if convicted and the period of incarceration as well as the fact that no apprehension has been expressed by the learned AGA that the applicant is at the risk of fleeing justice or that he would tamper with evidence or influence any witness, hence, at this stage, without expressing any opinion on the merits of the case, this Court is of the view that the applicant is entitled to be released on bail.

Let the applicant Ravi Kumar involved in Case Crime No.417 of 2021, under Section 8/21 of Narcotic Drugs and Psychotropic Substance Act, Police Station Gola, District Lakhimpur Kheri be released on bail on his furnishing a personal bond with two reliable sureties each in the like amount to the satisfaction of the court concerned.

At the time of executing required sureties the following conditions shall be imposed in the interest of justice.

(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.

(v) The applicant shall neither influence any witness nor tamper with any evidence after his release.

Order Date :- 27.10.2021

ank