

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31792 of 2018

Applicant :- Pramod Kumar

Opposite Party :- State Of U.P.

Counsel for Applicant :- A Kumar Srivastava, Jayendra Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Kumar Singh, J.

Heard Sri Rajeev Sharma, learned counsel for the applicant and Sri Abhinav Prasad, learned A.G.A. appearing for the State.

It has been contended by the learned counsel for the applicant that 517 Kilograms contraband article, i.e., Ganja is said to have been recovered from the possession of the applicant. It is further submitted that the applicant is the only driver of the vehicle in question and he has no concern with the alleged recovery. He further submits that there is no compliance of mandatory provisions of Sections N.D.P.S. Act, hence the recovery is bad in the eyes of law. The applicant has no criminal history with respect to the N.D.P.S. Act. The applicant is in jail since 11.1.2018.

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

Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tempering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.

Let the applicant **Pramod Kumar** involved in Case Crime No.9 of 2018, under Section 8/20 N.D.P.S. Act, Police Station New Agra, District Agra be released on bail on his furnishing a personal bond with **two heavy sureties** each in the like amount to the satisfaction of the court concerned with the following condition:-

(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.

The trial court is directed to expedite the trial of the present case and conclude the same expeditiously preferably within a period of six months from the date of production of a certified copy of this order, if there is no legal impediment.

Order Date :- 5.3.2019

Dev/-