

Arman Naseem vs State Of U.P. on 17 January, 2025

Author: Ashutosh Srivastava

Bench: Ashutosh Srivastava

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:8201

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44673 of 2024

Applicant :- Arman Naseem

Opposite Party :- State of U.P.

Counsel for Applicant :- Masood Ahmad Khan, Wasim Masood

Counsel for Opposite Party :- G.A.

Hon'ble Ashutosh Srivastava, J.

Heard learned counsel for the applicant, Sri Yagyavalk Pandey, learned Additional Government Advocate for the State and perused the record.

The present bail application has been filed by accused-applicant- Arman Naseem seeking bail in Case Crime No. 111 of 2024 under Section 8/21 NDPS Act, Police Station- Chaok, District- Kashi (Commissionerate Varanasi).

In the prosecution case it is alleged that on the information of the secret police informer, the police arrested the applicant. From the personal search of the applicant, 200 gm heroin is alleged to have been recovered from the possession of the applicant. The recovery has been made in front of the Gazetted Officer.

Learned counsel for the applicant submits that the recovered quantity of contraband is 'below commercial quantity' as provided in the Schedule appended with the NDPS Act and therefore, the stringent conditions as contained in Section 37 of the N.D.P.S. Act are not attracted in this case. The applicant has criminal antecedent of one case. There is no independent witness to the incident. The applicant is in jail since 19.10.2024.

It is further submitted that there is no possibility of the applicant of fleeing away after being released on bail or tampering with the witnesses. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

On due consideration to the facts that the recovered quantity is below commercial, the applicant has no criminal antecedents, he is in jail since 19.10.2024, prima facie there appears to be no independent witness and period of incarceration gone into by the applicant, the stringent conditions as contained in Section 37 of the N.D.P.S. Act are not attracted in this case and without expressing any opinion on the merits of the case, I find it to be a fit case for enlarging the applicant on bail. Accordingly, the bail application is allowed.

Let the applicant-Arman Naseem, involved in aforesaid case crime number be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence during the trial.
- (ii) The applicant will not pressurize/ intimidate the prosecution witness.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- (iv) 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.
- (v) 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 269 of Bhartiya Nyaya Sanhita, 2023.

(vi) 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 209 of Bhartiya Nyaya Sanhita, 2023.

Order Date :- 17.1.2025 Anjali