

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(Through Virtual Mode)

Reserved on : 26.05.2020
Pronounced on : 15.06.2020

Bail App. No. 25/2020

Santosh Kumar Gupta ...Applicant

Through :- Mr. Aadil Manzoor Beigh, Advocate.

v/s

UT of Jammu and Kashmir ...Non-applicant

Through :- Mr. Amit Gupta, AAG

Coram: HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER

1. The accused has filed the present application for grant of bail against whom FIR No. 61/2019 under Sections 8/21/22 NDPS Act came to be registered with Police Station Bus Stand, Jammu. The accused-applicant was found to be in possession of 180 gms of heroine when caught near Indra Chowk by the Patrol Party of Police Station Bus Stand, Jammu on 01.12.2019. It is submitted in the application that the accused has been falsely implicated in the case. The intermediate quantity of heroine is alleged to have been recovered from the accused, therefore, rigor of Section 37 of NDPS Act is not applicable in the present case.
2. The applicant had filed application for grant of bail before the court of learned Additional Sessions Judge, Jammu which came to be dismissed by the said court vide order dated 12.02.2020. The accused is in custody from 01.12.2019.
3. The objections to the application have been filed wherein the plea of bail is opposed on the ground that the accused is involved in illegal

trade of drugs which leads to spoiling the lives of the youth. The severity of offence and stage of proceedings do not favour grant of bail to the applicant. The prosecution witnesses are yet to be examined in the challan and therefore it cannot be said that there are reasonable grounds for believing that the accusation against the accused are not *prima facie* true.

4. Learned counsel for the applicant has also filed written arguments in the application.
5. Admittedly, the challan has been produced against the accused. The heroine allegedly seized from the accused falls within the intermediate quantity and the rigor of Section 37 is not applicable in the present case. It is also not made out from the objections that the accused is habitual offender having other drugs related cases lodged against him. The accused is in custody for the last more than five months. The allegation against the accused is subject to judicial scrutiny. The trial against the accused will indeed take some time to culminate and the liberty of the accused need not be curtailed.
6. In 2017 Legal Eagle 1077 titled 'Bhupinder Singh v. State of J&K' the Court granted bail in favour of the petitioner on the ground that the accused is found to be in possession of the poppy straw which falls within commercial and small quantity as such the rigor of Section 37 NDPS Act is not applicable in the present case.
7. The court finds no impediment in granting bail to the applicant-accused in the present case.
8. Accordingly, the applicant-accused is granted bail subject to furnishing of personal bond to the tune of Rs. 50,000/- and surety bond of the like amount to the satisfaction of the trial court. The applicant-accused

shall appear before the trial court regularly unless exempted. He shall also not leave the jurisdiction of the trial court without its permission.

9. The application is, accordingly, disposed of.

(PUNEET GUPTA)
JUDGE

Jammu
15.06.2020
Pawan Chopra

Whether the order is speaking? Yes/No
Whether the order is reportable? Yes/No